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ABSTRACT

The statements presented by numerous individuals at the hearing are recorded in this volume. Specific examples of discrimination against older adults in such Federally-assisted programs as the food stamp program, Medicaid, the community mental health centers program, the vocational rehabilitation program, the social services program under Title XX of the Social Security Act, and the legal services program are discussed. Suggestions for eliminating age discrimination in these programs and for improving Federal enforcement procedures in implementing the Age Discrimination Act of 1975 are included. (EB)

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ED178645

Hearing
Before the
United States
Commission on Civil Rights

AGE DISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

HEARING HELD IN
DENVER, COLORADO

JULY 28-29, 1977

VOLUME I: Testimony

U S DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
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U. S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*
Stephen Horn, *Vice Chairman*
Frankie M. Freeman
Manuel Ruiz, Jr.
Murray Saltzman
John A. Buggs, *Staff Director*

By the Older Americans Amendments of 1975, the U.S. Commission on Civil Rights was directed to: investigate unreasonable age discrimination in federally-assisted programs; report the findings of the investigation to Congress, the President, and affected Federal agencies; recommend statutory changes or administrative actions based on its findings; and draft general regulations for implementation of the Age Discrimination Act of 1975.

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UNITED STATES COMMISSION ON CIVIL RIGHTS

Thursday, July 28, 1977

The U.S. Commission on Civil Rights met at 8:30 a.m. in the Federal Office Building, Denver, Colorado, Arthur S. Flemming, Chairman, presiding.

PRESENT: Arthur S. Flemming, Chairman; Frankie Freeman, Commissioner; Eileen Bradley, Director, Age Discrimination Study; Frederick Dorsey, Assistant General Counsel; and Gail Gerebenics, Staff Attorney.

PROCEEDINGS

CHAIRMAN FLEMMING. Come to order please.

The U.S. Commission on Civil Rights is an independent, bipartisan agency of the United States Government, established by the Congress in 1957. It is responsible for investigating allegations that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin; studying and collecting information regarding legal developments which constitute denial of equal protection under the Constitution in such fields as voting, education, housing, employment, use of public facilities, transportation, and the administration of justice; appraising Federal policies and laws with respect to equal protection of the laws; serving as a national clearinghouse for information with respect to denial of equal protection of the laws because of race, color, religion, sex, or national origin; and investigating allegations of vote fraud in Federal elections.

The Age Discrimination Act of 1975 was enacted on November 28, 1975, as part of the Older Americans Amendments of 1975. The purpose of the act is to prohibit unreasonable discrimination on the basis of age in programs or activities receiving Federal funds. The act provides that:

> no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance....

The law specifies that this act shall become effective on January 1, 1979. During the interim the Congress has directed the Commission on Civil Rights to conduct a study of unreasonable age discrimination in federally-funded programs. The age discrimination study is intended to uncover specific examples of instances where persons qualified in all other respects are excluded from full participation in these programs by reason of age.

The act does not apply to programs or activities intended by Congress to benefit a particular age group, such as, for example, Head Start. It does not apply to those programs which necessarily take into account age or age-related characteristics, such as delinquency prevention or family planning efforts. With the exception of those programs funded under the Comprehensive Employment and Training Act, the Age Discrimination Act does not apply to employment practices.

The act charges the Commission to:

> identify with particularity those programs and activities at the Federal, State, and local levels which receive Federal funds and which deny access to otherwise qualified individuals on the basis of age;
>
> determine the nature, cause, scope, and extent of any finding of discrimination based on age;
>
> assess the reasonableness of the finding of discrimination;
>
> elicit the views of interested parties, including Federal officials, on issues relating to age discrimination and the reasonableness of using age to distinguish among potential participants or beneficiaries; and
>
> weigh the social, economic, and administrative consequences of alternative solutions to enforcing a ban on unreasonable age discrimination.

The Commission has been directed under the law to submit a report of its findings and recommendations for statutory and administrative changes and a set of general recommended regulations for consideration by the President, the Congress, and affected Federal departments and agencies.

The act specifically directs the Commission in carrying out its study to hold public hearings and to seek the views of those administrators, consumers, and other interested parties involved in the implementation of federally-funded programs.

The hearings follow an extensive field review of eight federally-assisted programs—the food stamp program, Medicaid, the community mental health centers program, the community health centers program, the vocational rehabilitation program, the social services program under Title XX of the Social Security Act, and the legal services program. These programs were selected because they represent some of the more significant Federal initiatives in the area of social and health service delivery and make up a large portion of the Federal, State, and local social and health services budget.

In addition, the Commission has looked into the field of education, emphasizing the admission policies of graduate institutions and professional schools, admission policies and financial aid procedures of undergraduate institutions, and targeting of appropriations at the elementary and secondary education levels.

Commission staff have interviewed local program administrators and service providers, State government administrators, and Federal regional office staff responsible for overseeing and enforcing implementation of program statutes, regulations, and policies. These interviews took place in six cities—San Antonio, Texas; St. Louis, Missouri; Jackson, Mississippi; Seattle, Washington; Augusta in the State of Maine; and Chicago, Illinois. In addition, interviews were conducted in the six State capitals of which these cities are a part and also in the Federal regional offices which serve the States and cities in question. In these interviews, the Commission focused on the steps involved in the process of deciding how to allocate funds and other resources among competing interests and whether and to what extent age was a factor in these decisions.

For our purposes, we have defined age discrimination as any act or failure to act on the basis of age, or any law or policy which results in or constitutes unequal treatment on the basis of age.

The field work, combined with inhouse policy and data analyses, has in fact identified widespread age discrimination. The purpose of this hearing, then, is:

> to build on and expand the body of information we have acquired from the field work;
>
> To receive testimony from persons who share responsibility for the delivery of services and who are in a position to explain the reasons for discriminating against potential clients, beneficiaries, or participants on the basis of age; and
>
> to solicit recommendations on suggested general regulations and Federal enforcement procedures to implement the act.

The session we begin today will be a public session. The witnesses we will hear have been subpenaed by the Commission, and the schedule, as you will note from the agenda, has been planned in advance. However, there will be a session at which persons who have not been subpenaed but feel they have relevant testimony may appear and speak. This session is scheduled for Friday, July 29, 1977, between 12:15 and 1 p.m. Persons who desire to appear at that session must contact the Commission staff in Room 2332 of this building. Staff members will briefly interview such persons before they appear to be sure that the testimony to be offered is relevant to the subject matter of this hearing and does not tend to defame, degrade, or incriminate any person. Persons will appear in the order in which they have signed up to testify. Each person will be allowed 5 minutes until the time allotted for the open session is exhausted.

As required by law, notice of the hearing was published in the *Federal Register* on June 24, 1977. A copy of this notice will be introduced into the record at this point as Exhibit No. 1.

Commissioner Freeman will now explain the rules that govern these proceedings. Mrs. Freeman?

COMMISSIONER FREEMAN. Thank you, Chairman Flemming.

At the outset I should emphasize that the observations I am about to make on the Commission's rules constitute nothing more than brief summaries of the significant provisions. The rules themselves should be consulted for a fuller understanding. Staff members will be available to answer questions which arise during the course of the hearing.

In outlining the procedures which will govern the hearing, I think it is important to explain briefly a special Commission procedure for testimony or evidence which may tend to defame, degrade, or incriminate any person. Section 102(e) of our statute provides, and I quote:

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade or incriminate any persons, it shall receive such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session with a reasonable number of additional witnesses requested by him/her before deciding to use such evidence or testimony.

When we use the term "executive session" we mean a session in which only the Commissioners are present, in contrast to a session such as this in which the public is invited and present.

In providing for an executive or closed session for testimony which may tend to defame, degrade, or incriminate any person, Congress clearly intended to give the fullest participation to individuals by affording them an opportunity to show why any testimony which might be damaging to them should not be presented in public. Congress also wished to minimize damage to reputations as much as possible and to provide persons an opportunity to rebut unfounded charges before they were well publicized. Therefore, the Commission, when appropriate, convenes an executive session prior to the receipt of anticipated defamatory testimony.

Following the presentation of the testimony in executive session, and any statement in opposition to it, the Commissioners review the significance of the testimony and the merit of the opposition to it. In the event that we find the testimony to be of insufficient credibility, or the opposition to it to be of sufficient merit, we may refuse to hear certain witnesses even though those witnesses have been subpenaed to testify in open session.

An executive session is the only portion of the hearing which is not open to the public. The hearing which begins now is open to all, and the public is invited and urged to attend all of the open sessions.

All persons who are scheduled to appear who live or work in Colorado or within 50 miles of the hearing site have been subpenaed by the Commission. All testimony at the public sessions will be under oath and will be transcribed verbatim by the official reporter.

Everyone who testifies or submits data or evidence is entitled to obtain a copy of the transcript on payment of cost. In addition, within 60 days after the close of the hearing, a person may ask to correct errors in the transcript of the hearing of his or her testimony. Such requests will be granted only to make the transcript conform to testimony as presented at the hearing.

All witnesses are entitled to be accompanied and advised by counsel. After the witness has been questioned by the Commission, counsel may subject his or her client to reasonable examination within the scope of the questions asked by the Commission. He or she may make objections on the record and argue briefly the basis for such objections. Should any witness fail or refuse to follow any order made by the Chairman, his or her behavior will be considered disorderly and the matter will be referred to the U.S. Attorney for enforcement pursuant to the Commission's statutory powers.

If the Commission determines that any witness' testimony tends to defame, degrade, or incriminate any persons, that person or his or her counsel may submit written questions which, in the discretion of the Commission, may be put to the witness. Such person also has the right to request that witnesses be subpenaed on his or her behalf. All witnesses have the right to submit statements, prepared by themselves or others, for inclusion in the record, provided they are submitted within the time required by the rules.

Any person who has not been subpenaed may be permitted, in the discretion of the Commission, to submit a written statement at this public hearing. Such statement will be reviewed by the members of the Commission and made a part of the record.

Witnesses at Commission hearings are protected by the provision of Title 18, U.S. Code, Section 1505, which makes it a crime to threaten, intimidate, or injure witnesses on account of their attendance at Government proceedings. The Commission should be immediately informed of any allegations relating to possible intimidation of witnesses. Let me emphasize that we consider this a very serious matter, and we will do all in our power to protect witnesses who appear at the hearing.

Copies of the rules which govern this hearing may be secured from a member of the Commission staff. Persons who have been subpenaed have already been given their copies.

Finally, I should point out that these rules were drafted with the intent of ensuring that Commission hearings be conducted in a fair and impartial manner. In many cases the Commission has gone significantly beyond congressional requirements in providing safeguards for witnesses and other persons. We have done that in the belief that useful facts can be developed best in an atmosphere of calm and objectivity.

This hearing will be in public session today and tomorrow. Both sessions will start at 8:30 a.m. Today, the hearing will adjourn at 9:30 this evening. We will have an hour break for lunch from 12:00 to 1:00 and for dinner from 5:30 to 7:00.

On Friday, the final day of this hearing, we will be in session until 1 p.m. The time between 12:15 and 1 p.m. has been set aside for testimony from persons who have not been subpenaed but who wish to testify. As noted by Chairman Flemming, persons wishing to appear at that open session must contact members of the Commission staff in Room 2332 of this building. Persons will appear in the order in which they have signed up to testify, and will be allowed 5 minutes.

Thank you.

CHAIRMAN FLEMMING. Thank you, Mrs. Freeman. I might just add to these two opening statements this comment. The U.S. Commission on Civil Rights by law is a bipartisan commission consisting of six members, no more than three of whom may be members of the same political party. Under the law establishing the Commission and that part of the law authorizing public hearings, two members of the Commission are authorized to conduct public hearings provided again that both political parties are represented.

A hearing similar to this one was held a few weeks ago in San Francisco dealing with the same subject matter. Another hearing will be held the latter part of August in Miami, Florida, and then finally the full Commission will hold a hearing in Washington, D.C., during the latter part of September, at which time we will listen to testimony from those who have top responsibility for the conduct of the programs that we are taking a look at so that these public hearings—San Francisco, Denver, Miami and Washington, D.C.—are in addition to indepth field work that was conducted in the six cities to which I referred in my opening statement.

At this point we are very, very happy to have the opportunity of recognizing Mr. Minoru Yasui, who is a member of the Colorado Advisory Committee to the U.S. Commission on Civil Rights. We have long appreciated the very effective leadership that Mr. Yasui has provided in the whole civil rights area, and we are delighted to have him with us and delighted to recognize him at this time. Mr. Yasui.

STATEMENT OF MINORU YASUI, MEMBER, COLORADO ADVISORY COMMITTEE TO THE U.S. COMMISSION ON CIVIL RIGHTS

Mr. Yasui. Thank you, Chairman Flemming and Commissioner Freeman. I am Minoru Yasui, member of the Colorado Advisory Committee to the U.S. Civil Rights Commission. I am also the executive director of the Denver Commission on Community Relations for the city and county of Denver. Actually, I am a poor substitute for Maggie Arros, our State chairman, but on behalf of the Committee and certainly as a local government official I welcome you most warmly to Denver for this second in your series of hearings on age discrimination. By the way, we ordered good weather. We have been having all kinds of hot weather and rain, but today is going to be nice and tomorrow will continue to be so.

Chairman Flemming. We appreciate that very, very much.

Mr. Yasui. The State Advisory Committee has been established by the United States Commission on Civil Rights pursuant to the Civil Rights Act of 1957, as amended in 1964. It certainly is the function of our State Advisory Committee to advise the Commissioners regarding any information or knowledge concerning alleged violations in the right to vote and of legal developments concerning denial of protection of the law, to advise and to assist the Commission in matters of mutual concern and to act as a factfinding body for the Commission. The Committee is composed of representatives from the various ethnic and cultural groups in Colorado and, certainly, reflects a diversity of occupations and ages.

Since the establishment of the U.S. Civil Rights Commission in 1957, as I understand it, this is the first hearing on the issue of age discrimination. Identifying and combating discriminatory practices which work to deny any person of his or her rights under the law on the basis of race, religion, sex, or national origin is the mission of this agency. The Age Discrimination Act of 1975 is the first clear, though limited, opportunity for the Commission to become involved in a very critical area of concern—denial of rights and benefits on the basis of age. The Congress has given the Commission temporary jurisdiction to study unreasonable age discrimination in federally-funded programs and activities. This hearing is a part of its study to elicit information on whether and to what extent agencies should be permitted to use age as a basis for deciding who will receive benefits and services made available under a variety of Federal programs. We understand that the Commission must report its findings and recommendations to the President and to the Congress, and draw up general suggested regulations to guide other Federal agencies in meeting their responsibility under the act. Because the Commission's jurisdiction for age discrimination extends only to gather facts and making recommendations, the State Advisory Committee's role in this area has been a very limited one. However, if and when age is made a full part of the Commission's jurisdiction, the Colorado State Advisory Committee is ready to assist the Commission in this area as it has in other areas for which the Commission has had responsibility.

As long as I have this opportunity to address the Commission directly, I want to add a note that we here in Denver consider ourselves very fortunate indeed to have an outstanding staff of individuals headed by Dr. Shirley Hill Witt, our Regional Director, and Bill Muldrow as our Deputy Director, and we do certainly express our appreciation to the Commission and the national staff for having these kinds of individuals among our midst.

Let me conclude by saying that the members of the State Advisory Committee are privileged, and we are proud to serve not only the U.S. Commission on Civil Rights but to serve all of the people in the State of Colorado. We hope that in the very near future we can be of service to the Commission and to all Colorado residents, including those people who may, for various reasons, be deprived of certain rights because of their age. We stand ready to serve the Commission and certainly the people of the State of Colorado, and again we warmly welcome you to Denver, Colorado.

CHAIRMAN FLEMMING. Thank you very, very much. We appreciate those words of welcome. We appreciate the work done by you and the other members of the Colorado Advisory Committee, and I know that your Committee would be ready to tackle the issue of ageism just as you have been dealing with the issue of racism and sexism. Thank you very much.

It is now my privilege to recognize the Honorable George L. Brown, Lieutenant Governor of the State of Colorado.

MR. DORSEY. I am informed by the staff that Lieutenant Governor Brown has not yet arrived, and in the interim I would ask, however, that we might identify in the audience the members of our regional staff and a former member of the Wyoming State Advisory Committee.

CHAIRMAN FLEMMING. I would be happy to have you do that.

MR. DORSEY. Mr. Gaurdie Banister I believe is in the audience. I wonder if you would stand up and be recognized. He was formerly with our Wyoming State Advisory Committee and is currently working in the Denver area and will be a witness before this hearing at a later time. Also, I would like to note that Dr. Shirley Hill Witt is with us in the audience. She is the Regional Director, and William Levis, the regional attorney.

CHAIRMAN FLEMMING. I also would like to recognize the presence of Mr. Clint Hess, who is the Regional Program Director for Aging for this particular region of the Department of Health, Education, and Welfare. He has been a very close associate of mine over a period of the last 4 years, and in my judgment has rendered very, very fine service in the field of aging. Are there any other members of the Colorado State Advisory Committee here? If so, we would be delighted to have you identify yourself. We will provide additional opportunity for that as the hearing proceeds.

Mr. Dorsey. We are also trying to track down the problem with Mayor McNichols, who is also not present at this time.

Chairman Flemming. Are the members of the first panel here?

Mr. Dorsey. They were instructed to arrive at 9:00, so therefore they are not with us at this time.

Chairman Flemming. It is 9 o'clock now.

Mr. Dorsey. I have 5 minutes to.

Chairman Flemming. We will have to synchronize our watches. We will wait 5 minutes then and start with the panel.

[A brief recess was taken.]

TESTIMONY OF CAROL BARBEITO, EXECUTIVE DIRECTOR, MENTAL HEALTH ASSOCIATION OF COLORADO; DR. ABRAHAM KAUVAR, MANAGER, HEALTH AND HOSPITALS, CITY AND COUNTY OF DENVER; MARY KRANE, PRESIDENT, CITIZENS ADVISORY BOARD, NORTHWEST DENVER COMPREHENSIVE COMMUNITY MENTAL HEALTH CENTER

Chairman Flemming. I ask the hearing to come to order. The first panel of witnesses was scheduled for 9:30. However, they were requested if at all possible to be here a half hour ahead of time, and one member of the panel is here, and in the interest of saving time and utilizing our time in the most effective way, I am going to ask General Counsel to call this member of the panel, and then as the other members of the panel come in, we will call them.

Mr. Dorsey. Would Mary Krane please step forward?

[Mary Krane was sworn.]

Chairman Flemming. Thank you very much. We appreciate your being here and we appreciate your being here ahead of 9:30. It will make it possible for us to utilize our time more effectively than otherwise would be the case.

Mr. Dorsey. Thank you very much. I wonder if you would, for the record, please state your full name and your title at this time?

Ms. Krane. My name is Mary Krane, and my title is—I am president of the Citizens Advisory Board, Northwest Denver Comprehensive Community Mental Health Center. I am also supervisor of social services at the Denver Department of Social Services. I work in aging and disability.

Mr. Dorsey. Mr. Chairman, we have another member of the panel with us now, and it is Dr. Abraham Kauvar. We also have with us Ms. Carol Barbeito.

Chairman Flemming. I would like to ask both of you to stand and raise your right hands, please.

[Carol Barbeito and Dr. Abraham Kauvar were sworn.]

Chairman Flemming. We are very, very happy to have you with us.

Mr. Dorsey. Thank you very much. I would ask Dr. Kauvar, would you please state your full name for the record, and your title?

Dr. Kauvar. Dr. Abraham Kauvar. I am manager of health and hospitals for the city and county of Denver and president of the Davis Institute for the Care and Study of the Aging.

Mr. Dorsey. Ms. Barbeito?

Ms. Barbeito. I am Carol Barbeito, and I am the executive director of the Mental Health Association of Colorado.

Mr. Dorsey. I would like to address a question to Dr. Kauvar. From your experience in the field of community health programs and mental health programs—I would ask you if you have in your experience found any instances or situations involving discrimination on the basis of age in any of the programs or the delivery of services, and if you could describe them to us at this time?

Dr. Kauvar. I would be happy to. My bias is the delivery of health care, and for some time now I have been quite convinced, and that was the reason we established primarily the Davis Institute for the Care and Study of Aging, that the elderly unless they have a facility of their own will not be able to get adequate care. Dr. Butler has brought this out many, many times: that the elderly do not get the same kind of care in a private or a voluntary hospital or a general hospital, and they will not get this same kind of care until such time as they have a hospital of their own. I think we are pretty much at the same place as we were with pediatrics in children's hospitals 20 to 30 years ago, in which the children did not get proper care until they had a hospital that was devoted to children. This was a very important step forward, and I think this is what made the difference between the good care and poor care for children. I think the same thing holds true for the elderly.

I know in my practice, and I was in practice for quite a while, that the problem was that the medical schools—the doctors were not trained, were not equipped, did not know how and were not aware of the problems of the aging, and I think this is true in any system that you go into, including our system, which is probably as discriminating as it can be in the delivery of health care. I call your attention to an article that just appeared in the *Rocky Mountain News* 2 days ago, written by Karen Peterson, in which the headline is that the elderly are neglected by the medical profession. I would just call your attention to the very first paragraph of that to which I subscribe wholeheartedly, which states that if your baby is sick you can get crackerjack care from a competent pediatrician, but if you are an elderly person, you will have a tough time finding a physician who has the proper training to deal with the problem. I think this is exactly true. I think until we get facilities that are really directed toward the care of the aging, the aging are going to get second-class treatment, going to get second-class citizenship as far as health care is concerned, and we think this is not right.

We have found in our particular delivery system, which, as I say, is a very discriminating and very sophisticated delivery system and probably recognized as one of the ones in the country that does deliver health care, that the elderly people do not come to our facility in the same proportion that other people do. You will hear testimony from my deputy manager later on for operations, and he has the statistics on that and I won't preempt his work, but it is evident that the people who are older do not get the proper care, because they don't come to our place, because they feel many, many times that they can't get the proper care. It is my contention, and I have said this before, that until we get people who are trained in geriatrics and until we have facilities that are devoted strictly to the care of these people so that they know they can get the kind of care, we will never improve the care that they have.

Mr. Dorsey. Thank you. Ms. Krane, as president of the Citizens Advisory Board, Northwest Denver Comprehensive Community Health Center, and a social worker, it's our understanding that you have in fact encountered some of these problems that are faced by delivery services to the elderly, and I would ask you if you had in your experience identified some of the causes in your mind for the disproportionate utilization of services by the elderly and the lack of services being delivered to the elderly. If you would comment on that?

Ms. Krane. I would be happy to. I think basically the same reason that older persons are discriminated against in mental health systems and social services is the same basic discrimination that society holds against older persons. I think that especially in the area of mental health older people are discriminated against because there is a given societal attitude, that if you are 75 and you are depressed, that's almost the way you are supposed to be. Many mental illnesses in old age are simply ignored. They are ignored by physicians and other delivery persons in the mental health system and in the social service system because most of the people working in those systems have no training to recognize the problem; they have no interest in an older person who is suffering with mental illness.

In the community mental health system nationwide, I believe, and I am not exactly the one to give you the statistics, I believe that less than 2 percent of the total people that we serve are older persons, and I think the discrimination against older persons is rampant throughout society, and many of the same reasons that Dr. Kauvar just noted I would say also.

Dr. Kauvar. Could I say one thing? Dr. Butler pointed out in mental health that the psychiatric trend is to practice the YAVIS syndrome. I think that is that the psychiatrists like to have people who have what is termed the YAVIS syndrome—the Y is for young, A is attractive, V is verbal, I is for intelligence, and the S is self-serving. The fact that they can get well faster—these are the kinds of people that the psychiatrists like to bring back to the point, and until we get people who are trained in this field they are going to get short shrifted.

Chairman Flemming. If I could interrupt the testimony from the panel for a few moments. It is my understanding that the mayor of the city and county of Denver is here, and I am very, very happy to recognize for words of greeting at this time the Honorable William H. McNichols, the mayor of the city and county of Denver, and if he will come forward he can use the microphone here at the end of this table. Mayor McNichols?

Mr. Dorsey. I don't see him, Dr. Flemming.

Chairman Flemming. I was given a note that the mayor was here, so I was responding to that note. Let's proceed with the testimony.

Mr. Dorsey. Ms. Barbeito, you had expressed the lack of services provided to certain age groups, and I wish that you would comment at this time as to those groups that you have identified and also indicate the causes as you have identified them as being responsible for this type of care.

Ms. Barbeito. My agency is a consumer-oriented advocacy agency that's part of the nationwide network of like agencies. We have nationally and locally in this State adopted a goal to try to promote the development of children and adolescent mental health treatment services, and we have paid particular attention to that age group, although I do have some comments to make on the senior citizens also. I do not know your background in terms of the mental health system of the State, and I did mention to your staff that I have a map which shows you the distribution of the centers and clinics and State hospitals. There are two State hospitals and 24 centers and clinics in the State. I also have a portion of their first 6-month statistics, which was an analysis of the client characteristics for the first 6 months of their '76–77 fiscal year.

Chairman Flemming. Without objection I would like to have the map to which you refer entered as Exhibit 2 in the hearing.

Ms. Barbeito. You, I believe, will want these client characteristics, but I would like to highlight some of the statistics to—

Chairman Flemming. Why don't you highlight them and I would like to have that entered as Exhibit 3.

Ms. Barbeito. In the children 0 through 11 years, they constitute 1 percent of our hospital admissions and 7 percent of our centers and clinic admissions. This is in comparison to the Colorado Vital Statistics Department statement that 20 percent of our State population falls in this age group. In the adolescent category, they constituted 8 percent of our hospital admissions and 11 percent of our community center admissions, and they constituted 9 percent of our population in the State. It is important in noting the statistics for children and adolescents that many of the admissions, as I could interpret the statistics, it looks like about a third are there for evaluation only, and that distorts even more these admission statistics as to who is receiving care from the system. In the senior population, you heard the figure 2 percent, and this is correct for the centers and clinics, and that is for people 65 and over, and the hospitals admissions were 5 percent. Our seniors constitute approximately 8 percent of our State population. We have seen in the State's 5-year plan a goal which has stated that there would be a 25 percent increase in children services in the '76–77 fiscal year, and it appears that we are going backwards rapidly. Instead of more admissions we are seeing less both proportionately and in numbers. The adolescent category, we are seeing somewhat more in the numbers, but proportionately less service, and in seniors they have projected a 50 percent increase, but the statistics are so low that it constituted a 50 percent increase, which brought them up to 2 percent. I think it is very important to know that there are reasons why our mental health system is responding the way it is.

When the center and clinic movement started, the first programs responded to the most immediate demand, and that was the people that were most obviously in the need of community services, those who were bothering people, and those who could walk in off the street, and that tended to be the general adult population, and our centers and clinics had a lot of people initially to get started, and that money has been decreasing over a period of time. The attitude has been since the law has changed requiring service to age groups as well as the categories of services to inpatient and outpatient persons, the centers are saying we cannot serve more because we are already full and therefore you must give us categorical money if you want us to put programs for the elderly or children or adolescents. In addition, all the clinicians originally hired tended to not have specialities but were comfortable serving the general adult population. I think those are the primary reasons that we have not yet trained the staff to service these special age groups, nor do the centers feel comfortable in that they would have to drop their present programming in order to provide that service.

Mr. Dorsey. I did neglect to have you identify your background in the area. You are the executive director of the Mental Health Association of Colorado, as I understand it, and also formerly a director of community services of the United Way?

Ms. Barbeito. Yes, and I have a doctorate in speech pathology.

Chairman Flemming. If I may interrupt, it is my understanding that the mayor is in the room, and, Mayor McNichols, we appreciate very much your coming and we would be very happy to recognize you at this particular time.

STATEMENT OF WILLIAM MCNICHOLS, MAYOR OF DENVER

Mayor McNichols. Thank you very much, Dr. Flemming, Commissioner Freeman, and members of the staff. I have a very brief statement pertaining to this very important subject, and with your permission, Doctor, I will read it.

Thank you for the opportunity to speak to you today regarding one of the most serious issues that our Nation currently faces. I will attempt to focus my comments today on only two elements of an incredibly broad subject. I do this to emphasize, to the greatest extent possible, the impact of these two points upon the way we live.

The first is the mandatory retirement age, whether State, local, or Federal, or, for that matter, private business. It is absolutely untenable in our current day's society, which has provided us with the capability of extending life well beyond the sixties, to assume that a person's usefulness is extinguished at the magic age of 65. Indeed, a quick look at the ages of elected officials throughout the country demonstrates the people of this country when given a choice to determine the holders of difficult jobs, complicated and sensitive, often opt for the older person.

Certainly we can sympathize with the difficulties experienced by the young in entering a labor force which retains substantial numbers of older workers, but to deal with this issue by arbitrarily excluding older workers from participating in the labor force is an oversimplification. While admitting fully the need for involving the young in the work force, we must deal with the matters of youth unemployment and deal with it directly. Sidestepping the issue will benefit neither the youth who are deprived of the wisdom of those who go before them nor active and vigorous Americans who are exiled to lives of supposed relaxation.

And the second issue, which is less of a philosophical argument, is no less important in its impact on the older worker and senior citizen. The matter of age as a distinguishing characteristic is poorly, if at all, defined. For example, under the Comprehensive Employment and Training Act an older worker is 45 years old. For housing programs the senior citizen is 62 to 65. Under Title III, the Older Americans Act, the senior citizen is 60 years old. For social services or old age pensions, depending on the program, the age is 62 or 65. If we are to use age as a discriminating factor in the provision of services, then we had better make a more substantial effort toward defining old age. It is both confusing to the person in need of services and to our multilayered bureaucracy to have a host of programs which extensively discriminate by age.

While this appears to be an administrative issue pure and simple, I think we should understand the direct relationship between this and my earlier point. It is apparent that the wide range of ages we associate with our various programs reflect the extreme difficulty in determining precisely what old age is. Does old age for a black American, who has a life expectancy consistently lower than the average American, begin earlier? Does an Indian on a reservation, whose life expectancy is lowest of all, become old at 35 instead of 45 or 55? I think that it is unnecessary to belabor this point. In fact, the two points are tied inexorably together. We are apparently unable to determine precisely what old or older is.

Therefore, it appears absurd to require a mandatory retirement based on an indefensible standard. At this time it appears indefensible to distinguish among participants by age when we cannot even agree upon what age the decision will turn upon. In summary, the first step in dealing with this is to abolish to the greatest extent possible mandatory retirement for older workers. The second important item is to create a uniform definition of eligibility for our various programs assigned to meet the needs of our aging population. The last caution, however, while calling for uniform standards I do not call for arbitrary standards. If age is to be used to distinguish among recipients of aid, it must be used in a judicious fashion with the realization that age does not fall with equal effect on all our population.

I think that sums up the two points, and I understand that the real focus was not on the retirement problem, but this is so woven into the fabric of our whole setup that I did focus on it, and I would be happy to try to answer any questions in regard to any facet of this although I see Dr. Kauvar here and—well, you have got an audience, Doctor—and I think you will hear from Roger Doherty, but I also think these two points are very important.

Chairman Flemming. We appreciate very, very much your statement, and as someone who has been involved in a crusade to eliminate compulsory retirement on the basis of age, I certainly welcome and appreciate your very straightforward comments on this particular issue. We have some reason to be encouraged as far as this issue is concerned. There is a bill pending in the House of Representatives as the present time that would eliminate compulsory retirement on the basis of age as far as Federal employment is concerned, and that would amend the Age Discrimination Act of 1967 so as to move it up from 65 to 70. Those who are supporting that particular amendment or many of those supporting this particular amendment simply regard that as a step in the right direction, but there is one bill that combines the two issues, and that bill was reported out of the House Committee on Education and Labor just a few days ago by a vote of 33 to nothing. So it looks as though when that hits the floor of the House of Representatives that we ought to get favorable action. You also probably had called to your attention the fact that in Los Angeles they had on the ballot a provision to repeal a city ordinance requiring compulsory retirement at a given age, and 58 percent of those who voted, voted in favor of the repeal. You are correct in your last comment that except for the Comprehensive Education and Training Act this issue does not come within our jurisdiction at this particular point. When the Congress passed the Age Discrimination Act and then directed us to make this study, they specifically exempted the Age Discrimination Act of 1967. However, we welcome your testimony on it, and we do have the opportunity of getting at the issue through the CETA program. On your second point, I certainly recognize the fact that we have not been consistent as a Government in identifying the age at which special programs will be available. Under the Older Americans Act, it is Title VII, the nutrition title, that puts it at 60 and above. Title III just talks about older persons, and we have quite a little leeway there, but then the issues that you have identified of the minority groups being confronted with some very special issues in this area is a very, very important issue. So that we welcome very, very much your identifying these two issues and giving us the benefit of your growing out of a long experience in the public sector.

Mrs. Freeman, do you have any comment?

Mayor McNichols. I might add that Mayor Bradley of Los Angeles and Mayor Ullman of Seattle were in the forefront of the U.S. Conference of Mayors in the adoption of a resolution along the lines you just adopted here, and I am happy to—

Chairman Flemming. Mayor Ullman eliminated the compulsory retirement by executive order.

Mayor McNichols. He has the power in Seattle.

Chairman Flemming. Of course, the State of Florida did it also in the terms of their State—

Mayor McNichols. The State of Maine also.

Chairman Flemming. There is a grassroots movement under way dealing with that particular issue.

Mayor McNichols. I certainly hope so.

Chairman Flemming. Thank you very, very much for being here.

Mayor McNichols. Thank you.

Mr. Dorsey. Before I resume I would like to note that since Dr. Kauvar mentioned Dr. Butler several times, for the record I would like to indicate that he is the head of the National Institution on Aging and the National Institute of Mental Health.

Chairman Flemming. Wait a minute, he is the director of the National Institute on Aging, which is a separate independent institute, a part of the National Institutes of Health.

Dr. Kauvar. As of last year.

Chairman Flemming. It is a new development. I think we also have to say that he is one of the great leaders in the field of aging and is the author of a Pulitzer Prize-winning book, *Why Survive?* in the field of aging.

Mr. Dorsey. I would like to note also, Mr. Chairman, that Lieutenant Governor Brown is currently here.

Chairman Flemming. We would be very happy then at this time to recognize Lieutenant Governor George L. Brown. We are delighted to have you with us, very happy to hear from you at this time.

STATEMENT OF GEORGE L. BROWN, LIEUTENANT GOVERNOR OF COLORADO

Lt. Gov. Brown. I am sorry I had to change your time and my time, but, as I told your staff, I was out of the city until last night and just got back. I don't have a whole lot to say. I am sure that there are others who will speak here who will testify before you more directly to some of the issues involved, but, as I understand, you are in the process of putting together regulations for the new legislation, and there are only two things that I feel called upon to ask you to make sure that you do. One of them is, and I'm sure everybody will ask for it to be as simple as possible. Federal regulations often are so complicated and complex that even the folks who write them aren't sure they mean exactly what they say.

The second thing is that, and the one that I feel compelled only to concentrate a little bit on, is the area of enforcement. Having been involved with the Denver Housing Authority as the assistant director for a period of time, and having been involved as a State senator for 18 years, and now 3 years as Lieutenant Governor, the thing that seems to me to be needed when you come from the Federal level down to either the State or the local level is that you have to be able to effectively enforce your regulations. Very often the method that is used is to withhold or withdraw Federal funds, either at the local or at the State level. This tends only to hurt the people who need the help. The bureaucrat who is administering the law wrongly is not really hurt by that tactic as much as the people who need the funds and need the service.

I can recall that in the old days of the Public Housing Administration, which as you know preceded the HUD, one effective method of enforcement was not to withdraw funds but to send in a Federal team to administer, if not totally, then certainly to be there to constantly look over the shoulder of the local or State official, and this to me seems to be a more effective way of enforcement than the other, and I would strongly recommend that if that is possible that you look to that method of enforcing whatever your regulations may be.

CHAIRMAN FLEMMING. Thank you, Lieutenant Governor Brown. We appreciate your comments, and I particularly appreciate your identification of the issue of enforcement. I agree with you. I do not think that our experience in this country has been very successful in terms of holding up funds which are designed to be of service to persons, and I personally feel that more often we move in the direction of penalizing the administrator rather than the recipient of funds the better off we'll be and the law that has been passed in this particular area tends to follow the traditional pattern, and I hope that as a Commission we can agree on some recommendations to the Congress and to the President along the line of your suggestion. I don't think that we are really going to make progress in enforcement unless we penalize the persons who are responsible for the failure to enforce a particular law. As long as we penalize the recipient, we are not going to make substantial progress. I think there are ways of getting at the administrator who fails to enforce the law in a very meaningful and effective manner. Thank you.

Commissioner Freeman. I think that you have made a very significant point. It seems to me, and perhaps you might want to comment on this further, that what this Government has been doing, both at the Federal, State, and local level, over the years is retaining an administrator who has failed to perform, when perhaps we might even consider putting in the regulations the removal of the administrator who fails to perform, because we have—there are people who have been on the job for many, many years who have not performed for various reasons, and many times their attitude is one of prejudice.

I would like for you to comment on another concern that I have, and before you came there was testimony from the mayor concerning the special problems of the blacks and the special problems of Indians, and I certainly could not ignore the very obvious that there are special problems for the female older American, but in any number of instances we have found that those are the very groups that are excluded from the decisionmaking process. They are excluded from the board of directors, they are excluded from the advisory councils, and I would like you to comment on the extent to which it might be appropriate to at least withhold funds from those agencies that deny the participation to those groups.

Lt. Gov. Brown. Yes, Commissioner Freeman, and I agree with you, and certainly you are able to express it in much better terms than I. Obviously this is a real problem, not just in Southern States—we tend to believe that there is racial bias only in Southern States.

Commissioner Freeman. This Commission has learned different from that.

Lt. Gov. Brown. Certainly the discrimination against women—and we very often forget the Native American. Having just spent 5 days with the Southern and Northern Ute and Comanches for the signing of an Indian treaty, a peace treaty, which was an historical event, I can really appreciate the fact that the senior citizens among the Native Americans are certainly a left-out group of people, and that, of course, includes the total category of Native Americans, but certainly the older Native Americans are completely, in my opinion, left out of everything. I would hope that your regulations would certainly cover this.

The big complaint that I had with the civil rights legislation of '64, and the activities that followed and the discussions that we had in this State with the then Vice President Agnew, was that there was a feeling at the Federal level that this is something that you need not get overly concerned because in time it would be worked out, that you had to be careful about the States rights issue when you look at civil rights. That, of course, burns me no end, because we don't seem to get uptight about State rights issues on water matters and the few other things when the Feds decide that their position is right and absolute. I would hope that that same attitude exists when we look at the discriminatory practices that affect our older citizens, because they definitely are in effect in this State. I am not one to want to defend our State system. I think our State system does discriminate against the older persons. That doesn't make me happy. I am very pleased that the Federal level has seen fit to try to do something about it. I would hope you would force us to do it at our State level. The whole problem of discrimination is not an easy one, and yet the only way you really get at it is through enforcement. You don't pat people on the back and treat them with kid gloves and expect the goodness of their hearts to come out and then make good decisions, when there was no goodness of the heart to begin with. I hope the regulations very definitely cover that area and that the enforcement is very clear in that area, or else you really haven't done much for the older citizenry in our Nation. The ones who are hurt the most as older citizens are the ones who were hurt the most as younger citizens, and I think we ought to recognize that.

Chairman Flemming. Thank you very, very much. We appreciate your being here and appreciate your testimony very much.

Lt. Gov. Brown. I am sorry I was late, but I had some State affairs that I had to do. I had to sign some things. While you are here I have one power that I am willing to extend. My office, of course, is open to help you in any way, but I have the power to sign pardons so if you would like a pardon while you are here, let me know and I will sign one up for you.

Chairman Flemming. Thank you very much.

Mr. Dorsey. At this time I would like to recognize Dr. Eric Pfeiffer. Dr. Pfeiffer is director of the Davis Institute for the Care and Study of the Aging in Denver as well as being professor of psychiatry at the University of Colorado School of Medicine. Dr. Pfeiffer formerly was professor of psychiatry at Duke University Medical Center and an associate director of programs of Duke University Center for the Study of Aging and Human Development. He is the author of several books and articles in the area of geriatrics.

[Dr. Eric Pfeiffer was sworn.]

TESTIMONY OF DR. ERIC PFEIFFER, DIRECTOR, DAVIS INSTITUTE FOR THE CARE AND STUDY OF THE AGING, DENVER

Chairman Flemming. I will call Counsel's attention to the fact that we now have until 10:15 for this particular panel.

Mr. Dorsey. All I wanted to do was to mention to Dr. Pfeiffer some of the areas we hit upon with the other witnesses in case he wanted to take that into account with his testimony. We have received testimony this morning concerning the attitude of physicians in the terms of their desire to treat the young, those more susceptible to successful treatment. The fact that some 2 percent of the services of community mental health centers go to provide services to the elderly nationwide. For example, the children in mental health centers often have services from ages 10 to 21 that are not provided prior to 10, and if you can add your experience in the area of aging to those, that would help us in developing the record.

DR. PFEIFFER. I appreciate that some of the basic facts have already been presented. I apologize also for having to be late. My activities were concerned with other matters related to trying to undo, I think, what is a *de facto* prejudice in our system of health and mental health delivery systems to the elderly person. I emphasize the *de facto* type of segregation that does exist in regard to this minority group, which faces in some of the same prejudices other minorities have had to face. I am not sure that the tactics may not have to be similar in order to overcome some of these prejudices. Whether the prejudices are *de facto* or *de jure* doesn't make any difference. In regard to that I would simply like to say that in doing so I am not attributing any ill will on the part of either the Federal Government or the practicing physicians or the people associated with mental health care systems in excluding, in a relatively systematic way, the elderly from the best available health and mental care service.

In my role as chairman of the HEW committee on mental health and illness of the elderly, we have taken cognizance of this *de facto* segregation, despite the fact that the laws relating to Medicare and Medicaid and the laws relating to the community mental health centers clearly indicate that these laws are to serve all the people without regard to age. In the physical health area I think we are primarily suffering from a lack of models of specific care for the elderly and a lack of commitment of funds, whether they be from the Federal allocation point of view or from the allocations within health care schools, medical schools, nursing schools, to the specific provision of training of future health care personnel for the specific task in terms of awarenesses, in terms of skills, in terms of attitude of how to address the health care needs of the elderly.

Physicians are nowhere more put off than by the fact that they are put in the position where they cannot do an effective job, lacking the special skills of dealing with the elderly which led them to withdraw. The same is true in regard to mental health services where active treatment programs are involved. I have had two experiences in this regard, which are anecdotal to some degree, which really hit at the nub of what is involved here. If you give an essentially nonspecialized trained psychiatrist the choice of treating an attractive young female with some situational problems around marital difficulties and an old man with some deficiency in memory, there is just no question in my mind that that person will almost routinely choose the treatment of the younger lady with the marital problems. That's one experience. The second experience comes from the fact that when we have had the opportunity to specially train mental health personnel in providing mental health services to the elderly, given them the skills, made them aware of the necessary attitudes, the attention to family matters, the attention to the necessary societal settings in which that elderly person survives, then the treatability, the responsiveness of the personnel becomes vastly different. They become positive about treating the elderly. They are successful in treating the elderly mentally ill, and I would say that in addition the rewards of treating elderly persons in difficulty are far greater, in terms of their gratitude for having gotten better, than anyone else.

In addition, I think I want to make the point very clearly that the attitude that it is not worthwhile treating older people is not only humanistically unacceptable, but factually it is unacceptable because you can't count on an older person dying. If you have a 65-year-old patient, he is not going to die in the next 2 years. There are life expectancy tables and our current status is 15 to 25 more years, a whole area of preparation. I have one recommendation to make and that is—in a way it is kind of sloganistic, but I would like to present it nevertheless. Roughly 10 percent of our population are the elderly. We have tried to integrate services to the elderly, saying that they have access to all the services that anybody else does, but the elderly are not as strong; they do not push as hard; they will not go through as much red tape; and I am advocating, indeed, what I call the 10 percent solution. And that is the allocation of 10 percent of community mental health program resources, of health program resources specifically designated of medical school activities, specifically designated for preparing health care professionals and for providing services to this segment of our population. We are currently doing about 2 percent of that.

Mr. Dorsey. I have no further questions.

Chairman Flemming. The panel has identified—members of the panel have identified a number of basic issues which relate directly to the assignment that Congress has given us. Dr. Kauvar, in your testimony you expressed your conviction that, in order to deal with the discrimination that is present in our society at the present time, it was important to establish some institutions that would focus almost exclusively on dealing with the medical needs of older persons, and I think that models of this kind can be extremely effective, but I am thinking in the terms of the other institutions in the city and State to which you refer. In your judgment, are these institutions, for a variety of reasons, deliberately discriminating against the older population?

Dr. Kauvar. It is funny when you talk about deliberately. I think you have to look into a person's heart and mind and that's difficult, but let me say that it was interesting that when I became interested in the field that I gave the first lecture to the medical students on aging, the first lecture that was ever given in that medical school. Since that time there has been some more awareness. I would say that looking at our delivery health system, when I go to the national health program I am amazed to see the number of young people we have, the young clinic, the young pediatrics clinics, and everything, and then when something happens with the older population, they sort of shake their head and they don't know what to do, and I think that brings up Dr. Pfeiffer's point that unless you are trained to do something you are not going to do it well. I think there has been definite discrimination but not deliberate, in the sense that they just don't know enough.

Chairman Flemming. Let me—I would agree with you that we cannot easily identify motivation on the part of a person. In your judgment, however, do the facts surrounding the operation of medical institutions point to the conclusion that those institutions have turned their backs on the needs of older persons?

Dr. Kauvar. I would say, amen.

Chairman Flemming. Now there is one other issue that has been raised. Ms. Barbeito raised it in connection with the mental health program. You indicated that those who are operating in the community mental health clinics say, well, we are handling all of the persons or we are serving all of the persons that we are capable of serving at the present time. Therefore, if we are going to change the pattern as far as serving the community is concerned, we are going to have to withdraw service from some persons in order to make it available to other persons. Do you feel that when a community mental health clinic confronted with that issue decides that they are again going to turn their backs on the older persons in order to solve their problems? Is that deliberate—I'll strike deliberate—engagement in a discriminatory practice? I would add the word, unreasonable discriminatory practice. I introduce that word because that word is in the law that we are being asked to study and on which we are being asked to make recommendations to the President and the Congress.

Ms. Barbeito. It is unreasonable that the elderly do not receive the service that they need and that there is no attempt to make that service available? It may not be administratively unreasonable to an administrator who doesn't know how to handle the various pressures that are coming on to serve everybody. May I expand on a point that I am a little concerned about? Withholding funds is not often a good solution, but I also see the pressure on administrators from so many forces that I would just like to make sure that that is balanced in consideration of the regulations. In the mental health system, in order to survive you need support from within, because the legislative environment has been really quite hostile to human service programs in this State this year, so that if you don't pacify or back off from some of your mandates then you find yourself in a position of having a segmented group approaching the joint budget committee. I am not saying there shouldn't be enforcement of mandates—I want there to be enforcement—and that is not going on in a real strong way at the State level now, but it seems to me that it is very complicated, and it is not always the lack of intent of the administrator of the State agency, but rather trying to balance the counterforces so they can survive and the system can survive.

Chairman Flemming. When the administrators try to balance these counterforces, sometimes he or she finds it is the line of least resistance to take a group and say, well, we will ignore that group in the interest of taking care of other groups. Do you feel that whenever an administrator follows that line of least resistance and decides to turn his or her back on the group, that that administrator is participating in an unreasonable and unjust practice?

Ms. Barbeito. Unjust.

Chairman Flemming. And is there—your feeling is that the administrator may say it is reasonable because I am up against certain practical difficulties—but do you feel that it is reasonable in the light of the concept of the dignity and worth of each human being?

Ms. Barbeito. No.

Chairman Flemming. You do feel that this kind of practice is taking place in the mental health field at the present time?

Ms. Barbeito. Yes, I do, and part of this I believe Dr. Kauvar alluded to and that is we must outreach to the special population groups that we have not been serving and we are not doing that.

Chairman Flemming. Your experience in the mental health area, there is no real effort being made to build a bridge between older persons and the kind of services that mental health clinics could render?

Ms. Barbeito. No, there are some efforts being made. They are on paper. There are some isolated instances throughout the system that I described that are doing a fairly good job, but systemwide the effort is not successful at the moment.

Chairman Flemming. When a community mental health clinic fails to try to relate to a segment of the population, in this case the older person, in your judgment is that community mental health clinic engaging in a discriminatory practice?

Ms. Barbeito. Yes.

Chairman Flemming. So often when we talk about discrimination the people will say, if an older person shows up at the mental health clinic we won't discriminate, but I have the feeling anyhow that discrimination goes beyond that, when you deliberately say you are not going to reach out and try to relate to a particular segment of the population, you are in fact discriminating against that segment of the population.

Ms. Barbeito. There is a very prevalent attitude that we evaluate as citizen site visitors all the centers and clinics in the State along with the National Institute of Mental Health. When we talk about what we can do to promote the center's services with special population groups and in the community, we are often told let's don't, in effect, those may not be quotes, because we can't handle it, we are not really ready for new groups.

Chairman Flemming. Well, I have noted—I think all of the members of the panel have identified as one of the reasons the failure on the part of our professional schools to train persons, and consequently this becomes a part of the unknown, and when it is part of the unknown they stay away from it, and instead of coming to grips with it—and I feel very keenly that in terms of the next generation that it is going to be very, very important to break through and see to it that persons receive this training, but the Congress has in fact said we are not going to wait for that, and we feel that the time has come to break through this circle and eliminate these discriminatory practices as of today.

In other words, the hospital that you referred to, if they were receiving Federal funds, and if they continued to follow the practice, would be in violation of this law. The same would be true as to the community mental health clinic, so that it seems to me that some are going to have to stop operating in accordance with the status quo and move into some new fields when this law becomes effective in January '79.

I think we should make clear that there isn't any doubt about the fact that the law is going to become effective in January of '79. It is on the books and there isn't any move to repeal it or anything of that kind. The question is what kind of regulations are going to be developed and maybe some changes in the law in order to make it more effective.

COMMISSIONER FREEMAN. Ladies and gentlemen, I would like to address my question to certain practices which may be put into effect which would have the consequence of changing and that is my concern. We have learned earlier about what appears to be the exclusion of certain groups of older Americans from the policymaking boards, and I would like to ask each of you if you would indicate something about your own boards and how the participation is, and if it is not inclusive to what extent you believe you can properly move to change or to the extent that to make it effective, and beginning with Doctor Pfeiffer and going in that order.

DR. PFEIFFER. I think I have a very strong feeling that both the staffing personnel and the decisionmaking segment of an organization must be closely related to the client population which it seeks to serve, not necessarily on a quota basis but in clear recognition of our population. Now, I want to say that in terms of mental health centers, and, for instance, you could say we only serve 2 percent of the elderly now and therefore their representation in such boards in not significant. Now, that is circular reasoning to an extreme degree, when the actual facts are that in that areas of such a community there might be anywhere between 10 to 25 percent of the elderly who have very high rates of emotional disorders, so that I think one has to look on the basis of systematic data not only at the people who are coming in through the door but potentially coming in through the door, because we can put up some very subtle barriers for not having them come through the door. In the area here in Denver, we anticipate that in our staff where we have at least two major minority groups we will have bilingual representation on the staff and black staff members as well.

On our local advisory board, which is the largest body that sits with us, these minorities are well represented, and in addition we have had special focuses in training sessions that we have held on mental health of the aging that have tried to sensitize the persons working in the mental health centers to the specialized aspects of mental health needs of minorities, elderly, including black, Hispanic, American Natives, and Asian American persons.

COMMISSIONER FREEMAN. In your letter to Dr. White of March 4, you indicated, of the board of directors membership, 0 female, 0 minorities; of the national advisory council of 11, 0 female, 0 minority; the local advisory council, 10 female, 1 black, 1 Spanish-surnamed; the total employees of 9, 5 female, 0 minority; and that was true as of March 1, 1977, and to date in the Davis Institute has that been—

DR. PFEIFFER. No major changes. Our big, major change is coming in the next year. We are going to hire probably about 80 clinical personnel, and in the starting of a facility like that, it is the people largely in the mainstream of life who have had the financial opportunity to contribute financially to the starting of such an institute. Unfortunately, I am not able to say that there are many members of minority groups who are in the fortunate position to start with major financing.

COMMISSIONER FREEMAN. Does the Davis Institute receive any Federal money?

DR. PFEIFFER. It does receive some Federal money.

COMMISSIONER FREEMAN. How much?

DR. PFEIFFER. Again this is—we are very much in a growth situation, starting from zero about a year ago. Currently, I think they are, there is about half a million dollars a year from several agencies, the Administration on Aging, the National Institute Child Health and Human Development, and the Health Resources Administration. These are the principal ones to date.

MS. BARBEITO. We have a State board of 33. I don't have the exact figures, but I believe I can count about eight or nine members who would fall into the senior citizen category. We have not done as well getting the younger people, in terms of teenagers or college students. We have 19 females, 14 males, and we have 2 blacks, and 2 Chicanos. Our goal this year is to bring that percentage to the percentage representing the population in our State. We have 14 centers or branches around the State, and all of them are well represented by senior citizens.

DR. PFEIFFER. Commissioner, may I make another comment and that relates to our particular operations as an Institute on Aging? I was interested, for instance, that in the letter from the Civil Rights Commission asking about representation, no question was asked whether elderly persons were represented on either our staff or our board of directors or our local advisory board, and I would say in this regard we are very conscious of this and approximately fully one-third of all persons on our local advisory board, which is the main input in regard to programs, are persons over the age of 65, and the percentage is substantially greater than about 40 to 50 percent over age 60, but I think there was no mention of that in the questionnaire. This is an internal kind of thing where even in a civil rights group that is looking at this, questions about age are not themselves being addressed, and I think they should be.

Commissioner Freeman. We are addressing it right now. Ms. Krane?

Ms. Krane. The citizens advisory board of Northwest Center has 21 members. I don't have those statistics with me, but I am sure that 50 percent of our board members are either Chicano or black. We only have two people that I know of who are over the age of 50. One person is over the age of 60.

Dr. Kauvar. May I make a comment about the Davis Institute? Actually this was a gift from one man, it was given to me, and at that point I had to decide what to do with it, and we put it in the field of aging. This is a—it isn't even opened yet. We are opening August 16, and I assure you that as the growth situation develops there will be no question about the fact that there will be adequate representation in all areas. In our particular board of health and hospitals, we do have a policymaking decision for our agency—we have two Chicanos, one black, and several people over 65 in the area. I would make one further comment and that is that I hope in the field of aging we get more younger people interested. Too often, the younger people have not taken the interest, to be honest with you, and I think it is people who have been in that group that we need, whoever of the younger people are interested. However, we feel very strongly that we are going to utilize the talents of the older people in every way we possibly can, because they are underutilized in other areas.

Commissioner Freeman. There were two comments this morning about the psychiatrists who would, given the option, prefer to treat the young, attractive female. Well, as a black female, other person—I shudder because I probably would never get treated and I would be—I hope I never have to be in need of a psychiatrist. These two persons have said that I would probably not get treated, which just indicates the complexity of the problem, and I am just hoping that we can come out of this with some insight and recommendations that will change it and improve it.

Chairman Flemming. It seems to me we have been dealing with this panel with a very serious issue. I think I am correct in saying that on an annual basis, 25 percent of all suicides in this country are persons 65 or over, and I would like to just ask for a brief comment from each member of the panel whether you feel that the discrimination against older persons in the delivery of health services, including mental health services, is a direct and contributing factor to that high suicide rate?

Dr. Kauvar. Yes, I remember as a practicing physician for many years, the thing that impressed me most was that as the mobility of families moved away and as people did not have a family unit that they had before, that they looked to the medical profession to take care of that situation, and unfortunately the medical profession didn't handle the situation because they weren't trained to handle it, and it was terribly discriminating, and I think in that sense it is an indictment of all of us, with the medical profession really taking the brunt of it as to why this horrible figure really exists.

Ms. **Krane**. I do agree. I do want to mention that I have worked for 10 years in the City and County of Denver with older persons who are poor, and all the years—things are a little better now but not much. If I as a social worker saw that a client of mine needed a certain kind of service, the efforts to which we've gone to get the service is just incredible, and I could take any one of you sitting in this room outside right now and show you some situations that you would not believe existed in this country, much less in a city like Denver, which I guess is less in trouble than many other big cities, but it is just incredible, and I want to tell you that some of the situations I see I don't understand why those persons have not committed suicide.

Ms. **Barbeito**. I would agree. The losses that occur as you grow older in terms of your physical ability and the loss of friends and family are not being replaced by our society in their concern for the elderly, and while I think the people specializing in the mental health treatment for the elderly, as was pointed out before, do find that they can help, they can teach people how to compensate and how to bring something new into their lives to replace some losses. If those things are available that can occur, but they are not available.

Chairman Flemming. I appreciate the time that you have given, and, Dr. Pfeiffer, your brief comment, I would like to ask you as the chairman of the HEW advisory committee in this particular area, whether you see any signs of hope in the terms of our getting, making it possible for older persons to have a fair share of the community mental health resources. Again, I would have to ask that you be brief because we do have to proceed.

Dr. **Pfeiffer**. Quickly to suicide—this is more of a problem for elderly males than it is for elderly females. It is on a 7 to 1 ratio. We are prejudiced against as males in this instance, I think. The medical community is one aspect of helping that problem, but the assistance of the medical community to revitalize the natural social support systems in which these older persons can be received is another probably even more major aspect, and I think we need to pursue both agendas. In regard to the future of mental health care for the elderly, I do see some hope. I see it coming primarily from two areas. One, from better training in the area of mental health care of the elderly, which we plan to play an active role in, and, second, from legislative mandates that such services be provided. I endorse both approaches; one alone will not suffice.

Chairman Flemming. We appreciate very, very much all members of the panel being with us and sharing with us your insight and your convictions. Thank you.

Mr. Dorsey. Before the panel gets away, if you have any written documents that you have brought with you, if you would please before you leave give them to the clerk in the corner, so we may include them in our records. Thank you.

TESTIMONY OF ARMANDO R. ATENCIO, DEPUTY MANAGER, DENVER DEPARTMENT OF HEALTH AND HOSPITALS: DEAN HUNGERFORD, DIRECTOR, DIVISION OF HEALTH SERVICE, U.S. PUBLIC HEALTH SERVICE DENVER; ABEL OSSORIO, DEPUTY REGIONAL HEALTH ADMINISTRATOR, U.S. PUBLIC HEALTH SERVICE, DENVER

[Armando Atencio, Dean Hungerford, and Dr. Abel Ossorio were sworn.]

Mr. Dorsey. Starting with Mr. Atencio, would you please state your full name and your positions for the record?

Mr. Atencio. Armando R. Atencio, deputy manager with the Denver Department of Health and Hospitals.

Mr. Hungerford. Dean Hungerford, Director of the Division of Health Services, Public Health Service, Region VIII.

Mr. Ossorio. Abel Ossorio, Deputy Regional Health Administrator, U.S. Public Health Service, Region VIII.

Mr. Dorsey. I notice while we were receiving the former testimony, that you had occasion to be in the audience for some period of time, so I'm sure you heard the testimony which indicated that, in fact, at least those witnesses are convinced that there exists discrimination in the delivery of services to older persons, and I wonder if you might comment, Mr. Atencio, as to what factors you believe account for the low utilization by older persons of these services as compared to other groups.

Mr. Atencio. Yes, sir, and I do have a prepared statement that I will submit for the record. And I do, in fact, make mention to that very matter or concern that we have of the low utilization of services in our system by the elderly. We do not, at this point in time, have any empirical evidence that would give us a real clue as to what the reasons are. The conjecture is, however, that one of the reasons is the fact that the services that presently constitute the organization of these services is such that it does not address the needs of the elderly. That is one of the factors that we suspect is responsible for the low utilization of the services by the elderly.

The other factor, we feel, is that the elderly, while maybe being a medical indigent—or rather economically indigent—may not necessarily be medically indigent because of the fact that most of the elderly, 60 or 65 or over, would be covered under Title XVIII of the Social Security Act and would, in fact, be utilizing the private sector for the health care to a greater extent than would be the case in the other age groups that receive care in our system.

Mr. Dorsey. Do you have any indication of the level of training for various specialists in your area to deal with the kinds of problems that are most likely attributed to the class of elderly persons? Is there a sufficient pool of trained staff to deal with those specific kinds of problems?

Mr. Atencio. It's our opinion that there isn't. I think the earlier panel addressed this more specifically. Dr. Kauvar and Dr. Pfeiffer, who is the director at the Davis Institute which is just getting started now, are addressing those very issues, and one of the reasons that the Davis Institute came into being is the fact that we feel the needs of the elderly are not being met, and in our own system we suspect—we don't suspect, we know—that we do not have enough people who are trained to take care of the needs of the elderly.

Mr. Dorsey. In terms of the general programs of your organization, are there elements that militate against providing services, such as emphasis on preventive health service and lack of certain support services? Do these items also influence the extent of participation by older persons?

Mr. Atencio. Well, it's possible. I brought this exhibit to give you some idea of the span of service that we provide, the comprehensiveness of the health service system that we have. As you will note in this particular exhibit, we have a hospital, a 342-bed general hospital, that provides the traditional service available in a hospital. That serves as the core for the rest of the health care delivery system which includes neighborhood health centers, neighborhood health stations, mentel health facilities, alcoholism programs. The public health division in the City and County of Denver is under the Denver Department of Health and Hospitals, and as comprehensive as this system is, there are areas where we feel that some age groups' needs are not being met and we do emphasize prevention to a great extent. So, obviously, as my statistics will show, the percentage of youngsters utilizing the services of our system is greater than their proportionate number in the population of the city and county of Denver, and as you go up to the higher age groups you will find that the elderly, the amount that does occur, is a lower percentage of users as compared to their numbers in the general population. And there is no doubt about the fact that we emphasize prevention, including, well, baby clinics and so on, that we have a higher utilization in that age group. It's possible that because we emphasize or place a great deal of emphasis on the young people in the prevention area that the elderly ar being left out.

Mr. Dorsey. Addressing the prevention to Mr. Hungerford and Dr. Ossorio, are there any policies or guidelines emphasizing the delivery of services to children or any other specific age group?

Dr. Ossorio. I'll make two comments on that. One, the Federal Government does have categorical programs that mandate certain kinds of services to children and youth and to mothers. Other than that, all of the Federal Government's programs that are designed to provide direct services to people in need specify that these services should be available to all on an equal basis. In other words, whoever presents himself to a clinic or a facility that we support through grants is entitled to getting service whether he is able to pay or not. If he is able to pay, he does pay; if he's not able to pay, he does not.

MR. DORSEY. In terms of one, on the one hand, those programs which are specific in terms of emphasizing age groups such as children, are there written policies and guidelines in that regard or is it the sole source of that the statutory language?

DR. OSSORIO. There are regulations based on the statutes, but there is a statutory for these programs and money is allocated specifically under the statute.

MR. DORSEY. Aside from those particular programs, are there written guidelines and policies effectuating what you have just indicated, namely, that all services otherwise are to be provided without regard to age?

DR. OSSORIO. Yes, and I will let Mr. Hungerford specify what those guidelines are.

MR. DORSEY. If there are written guidelines and policies, I wonder, if you have them with you, if you could present them, and if you do not have them with you, if you could please make those available and we could have them introduced as an exhibit into the record.

DR. OSSORIO. We can do it.

CHAIRMAN FLEMMING. With that, we'll ask you to provide us with those regulations and we'll introduce them into the record as Exhibit 4.

MR. HUNGERFORD. Could I ask the range of the programs that you would be interested in?

MR. DORSEY. Right now we are concentrating on the community health centers. I would ask in that regard, Mr. Hungerford, if you would indicate for us, given the previous testimony indicating that for whatever reason there seems to be a great disparity between the potential clienteles and the actual persons served—number of persons served—specifically as related to the elderly, if there is any program or any policy directive to justify or to balance that disparity as it's been indicated today?

MR. HUNGERFORD. Let me first say that the data that we have on community health centers that we support in the region—you see the same sort of disparity that Mr. Atencio mentioned. There is a greater proportion of children seen in these centers in relation to their population than there is for the 65 and over age group.

Now, as for policies or procedures that would tend to give this result, Dr. Ossorio is correct in saying that the regulations that apply to community health centers specify that there will not be discrimination on the basis of age, sex, and a number of other factors. I believe that the nature of the program itself and probably some emphasis that is given to preventive services, immunizations, services to mothers and children would result in this without there being frank or overt discrimination. I think the nature of the services that are provided would result in this disproportionate number of children that are seen as compared to the over 65.

Our guidance for the work plan next year does emphasis child health programs. This is not to say that dollars for the support of services to the population generally are being diverted to that activity. But, again, with the emphasis—I think that there is a tendency then for more emphasis to be given in the centers to that sort of service.

Mr. Dorsey. Do you have any projections, yourself or Dr. Ossorio, that when the Age Discrimination Act goes into effect that its provisions will in any way influence, in terms of increased delivery of services, the proportion of elderly in the community health program?

Dr. Ossorio. I'd like to make a comment on that. It's my belief that measures showing utilization of the elderly of outpatient clinic and ambulatory care facilities may increase. I'm very doubtful that this increase would be related in any way to any kind of improvement of health status of the aged. The reason I say this is because the appropriateness of the health services that you give to the aged is probably the most important factor in the improvement of the health status of the aged.

In order to do this, I think we have to tackle several significant barriers to access that the aged have, which has nothing to do with discrimination. It has to do, number one, in rural areas with the matter of transportation. Rural poor, particularly the aged poor, find it virtually impossible without some kind of help to get the transportation, which may be up to a hundred miles in Montana, in order to go to a place where they can receive health care.

Cultural barriers, particularly for the minority aged, are a significant barrier to utilizing health care. Particularly because the cultural difference tends to be accentuated in the aged, the degree of acculturation tends to be less, and therefore the institutions of the health care tend to be more alien and perceived as being less useful or compatible with the person's needs as he defines them culturally.

Now, in order to tackle those two things, I think it will be necessary that regulations provide or mandate or make possible the integration of a number of sources of funding that will enable one of a number of interested institutions to pull together a network of services. For example, there is money for transportation in the Department of Transportation. That is not accessible to the community health center that is trying to provide outreach services to the aged. Regulations should provide for that kind of molding and integration of all of the available sources that are categorically directed to specific kinds of things so that you can develop a system that can take care of these factors.

Another problem is the economic one. Most of the community health centers right now are under tremendous pressure as a matter of national policy to contain costs and to become economically viable as health providing institutions, even though they are federally-supported. Under these circumstances an outreach program, the hiring of people who will make contacts with the aged in the homes as is necessary in many cases, becomes an overhead cost which the community health center feels it cannot support under the existing economic constraints that it has to operate. The regulations should provide for some kind of overhead, some kind of service that is not defined strictly in terms of a specific contact between the health providers on one hand and specific patients on another, because the outreach worker who goes out and does the most effective job of outreach is not defined as a health provider under any of our regulations, nor will he be defined as a health provider under national health insurance. There has to be some kind of provision for the indigenous person, the Hispanic-speaking woman who can visit the older Hispanic woman and bring her in, the black women who is hired who has a high school education who does the most effective job of reaching old black people in their homes, helping them with the paperwork, the fear of dealing with institutions, and so forth. That is an overhead at the present time that is going to get more severe as the constraint of viability is placed on our community health centers. Now, one other factor I want to reinforce very strongly is the fact that, first of all, trained people in gerontology and geriatrics do not exist at the present time. They do not exist in the universities to teach people. They do not exist in the training institutions that provide fieldwork training for the professional health providers. That has to be addressed both in terms of incentives and mandates to provide this training. The extensive use of indigenous personnel is part of the answer to that problem. By indigenous I mean as they have in Utah, a program that I'm familiar with in Utah, a person in every neighborhood who belongs to that neighborhood that everybody in that particular block knows that he can come to as an ombudsman who can help him to get to the proper place to get service.

Now, those aren't health providers, but if you want to improve the health of the aged, this is the kind of thing you need.

Mr. Dorsey. I have no further questions, Mr. Chairman.

Chairman Flemming. This testimony has raised a number of very important issues. Let me go back to the statement that under the law, Federal law at the present time, that services are to be made available to all on an equal basis. The fact that the members of the panel have referred to, presented by the previous panel, make it clear that services are not available to older persons on an equal basis.

I have stated a conclusion there. I'd be very glad to have you react to that conclusion. As I listened to your testimony, that is the conclusion I reached, that as a matter of fact, whatever the reason, whatever the causes, services that are financed in whole or in part by the Federal Government are not available to older persons on an equal basis.

Dr. Ossorio. I would say that is a valid conclusion. I would also say that we do not have the information systems that give us accurate notions of the extent to which this is true.

Chairman Flemming. I appreciate that. Do the rest of you agree with the conclusion?

Mr. Hungerford. At least the elderly are not utilizing the services, and I suspect it's because the system is not accessible or available or responsive to their needs.

Chairman Flemming. That brings me then to the statement that you made to the effect that guidance for either the present year or for fiscal '78 that has come from Washington, states that the emphasis is to be child health, right?

Mr. Hungerford. Right.

Chairman Flemming. Does not guidance of that kind mean that older persons will be discriminated against in terms of having access to these services?

Dr. Ossorio. Not necessarily.

Chairman Flemming. We all recognize the resources are limited and that the resources are not adequate to take care of all needs of the population. When you get guidance saying the emphasis is to be put on child health, the administrator who has to implement that guidance has got some choices he's got to make. He is told that in making those choices, you must put emphasis on child health. Doesn't that mean that when he's asked why he doesn't put more emphasis on dealing with older persons, he will cite that guidance as a reason?

Dr. Ossorio. The first out would be to cut back on those age groups that are already overutilizing services in relation to their proportion in the population. For example, the figures that I have here with respect to our centers indicate that the group of 18 to 44 comprises 39.6 percent of the population and is utilizing it at the rate of 46.1, so there's a little leeway there for tradeoffs.

It's also true, I think, that the point you're making is basically a correct one, that if there is a policy guidance backed by a considerable pressure from headquarters to achieve results, that these results will be achieved.

Chairman Flemming. That was the reason for my question. The testimony that you have given and the members of the other panel have given would indicate that one of the reasons for underutilization on the part of older persons is a lack of what we often refer to as an 0outreach program0 directed to older persons. Could you agree, all of you, that we really do lack a kind of an outreach program designed to build a bridge between the older persons and the services that are available?

Dr. Ossorio. I would agree, although I might not be wholeheartedly in agreement that this is necessarily a function of the health center, that there may be community agencies that might perform this kind of an outreach program in cooperation with the center that might be better. You see, because the health business—the minute you try to expand the health business to cover a lot of social variables as well, you begin to lose the focus of what that health agency is supposed to be doing—namely, providing health services. So my impression would be that a better way of going about this would be by the development of community support services or community support systems that brought together a number of agencies that could split the total jobs among them, rather than putting the onus on the health center to do all of these things that are ancillary to the provision of health services.

Chairman Flemming. Of course, I agree that the most desirable setup is a coordinated, comprehensive system of services for older persons, and, as you know, that is one of the objectives that the Congress has assigned to the Older Americans Act or has assigned to the Administration on Aging under the Older Americans Act.

On the other hand, we are dealing with a kind of a fine line here, if we're talking about a community health organization or a community mental health organization, and either the health organization or the mental health organization identified the fact that older persons are not utilizing their services. It seems to me that in many respects they are in the best positions to explain what these services are and to invite their use.

If I may take one illustration, this is in the mental health area, again, but compulsory retirement without regard —on the basis of age and without regard to the merits of the case puts individuals through a very traumatic experiences, and some feel there's a relationship between this and the high rate of suicides. If those people were going through that experience unaware of the kind of help that could be given either by the community health organization or the community mental health organization, then they are not going to turn to them. Laymen are not in a very good position to explain what that kind of help might be and it seems to me that the organizations that are actually delivering the services are in that position. Going back to the question of the other panel, I have a feeling that when we fail to carry on that kind of outreach program, we are, in fact, discriminating against that age group.

Dr. Ossorio. Yes, just as we are against other minorities that require the same kind of program. I would agree to that, yes.

Chairman Flemming. So that I think the Congress has worded this law in such a way that a failure to carry out positive outreach programs in connection with services of this kind would be regarded as discrimination, and those who failed to do it would be in conflict with the law. At least, I'll put it this way, I hope the law as it's finally worded and the regulations as finally issued would make this clear, because it's the only way we're going to get at today's older person and serve them and not continue the discrimination.

One other thing I mean to ask the other panel, but I'd like to ask you out of your experience, and I will precede it with this conversation. I was with a doctor that I respect very much and we were talking about the field of aging. His comment to me was, "I hate to make rounds at a nursing home," and I said, "Why do you put it that way?" He said, "We're interested in victories, not defeats." He was very blunt, but is that an attitude that we have to deal with if we're going to bring about a situation where we eliminate some of this discrimination?

Dr. Ossorio. Very much so. The situation is quite similar to that which existed with respect to the mentally retarded, where the professional and his training developed a lot of myths about the nature of older people as well as the mentally retarded so that by the time he gets out as a trained professional, he's ready to write off the older person as representing nothing but defeat.

Chairman Flemming. He's ready to accept the conclusion that the older person is senile even though in reality the older person is not.

Dr. Ossorio. Exactly, and the minute you start working with older people, you find out it is a myth, but it's a cultural factor with the professionals.

Chairman Flemming. How do we get at it?

Dr. Ossorio. I think what you do—I do teaching at the university on a part-time basis—on the training of professionals, you throw them into a place where they really get to know old people and then watch them struggle and then help them struggle, and when they come out, they're a little more reasonable about who they will treat.

Chairman Flemming. I think that Dr. Pfeiffer's testimony was along that line as far as the mental health centers. Once they get involved, they find out there can be victories.

Dr. Ossorio. That's what happened to me.

Chairman Flemming. Commissioner Freeman?

Commissioner Freeman. I was concerned with the statement that was made about the inaccessibility by reason of transportation, and you indicated the fact that the elderly sometimes have to travel 100 miles, and it occurred to me that perhaps a program similar to those programs administered by the Department of Agriculture for the rural, that consideration could be given to the mobile health clinic. And I wonder if there is any provision in the law now that would prohibit such a program being started immediately. Given the necessary money, that it could be put into operation, especially for the purpose of providing preventative health care, and I'd like the comments of any or all of you.

Dr. Ossorio. As far as I know, there is no provision that precludes that. On a technical side, you have a number of choices. You have, first, a choice of putting physician extenders as an outreach program.

You have a town of 20,000 and then you have smaller towns around it. You put your physician in your big town, and then you put nurse practitioners or physician extenders in your smaller towns, bringing the services closer.

Another choice is the mobile unit. Still another alternative is the circuit rider concept where the physician makes rounds through a number of towns. To mandate any one of those would be a mistake. You have to use these three methods flexibly according to the circumstances.

COMMISSIONER FREEMAN. Are any being used now?

MR. HUNGERFORD. As a matter of fact, yes. This is the strategy that we're following generally to provide services in rural areas, the combination of the methods Dr. Ossorio mentioned. The National Health Service Corps is one mechanism for placing health providers in rural areas and these range from the physicians, the primary care physician or the specialist, if there's a need for those, as well as the physician extenders, and I would like to add that transportation is a required service for the community health centers. That is, the lack of transportation should not be a barrier for any of these centers. However, outreach, in the sense that Dr. Ossorio has described, is optional or supplemental service, and we think we need the combination of both.

CHAIRMAN FLEMMING. If I could just interrupt there. In other words, the Department of Transportation does provide funds, or has for the last 3 years, to the States, to be used for special transportation programs for older persons and the handicapped. These are capital funds only. They cannot, under the law, provide any operating funds. Under the law the community health organizations operate under, they could take a bus that had been purchased with Department of Transportation funds and then operate it.

MR. HUNGERFORD. Right, or provide taxi fare or whatever is appropriate.

COMMISSIONER FREEMAN. Mr. Atencio?

MR. ATENCIO. I want to comment from a pragmatic standpoint and from the standpoint of the operator. The administrator that has to administer the program is particularly dependent to a great extent for Federal money, as we are in the community health centers. We have to understand that while money is made available for outreach and we may be encouraged to have outreach in our programs and transportation, the other side of the coin is the fact that there is a constant emphasis on viability of that program and just in terms of a financial liability to make the progam self-supportive as much as possible. You really cannot afford to provide some of those services.

COMMISSIONER FREEMAN. May I just ask you, a constant emphasis by whom?

MR. ATENCIO. Primarily by the funding agencies. In this case, it would be HEW that funds the program.

Commissioner Freeman. We need to know this because when we hold our hearing in Washington, where the buck is going to stop, we want to know who it is that sets this policy so that we can ask the question. And you're saying that HEW in Washington will develop a policy and tell you that you can administer it and that they will make an appraisal on something called viability, and then you may not be able to administer it?

Mr. Atencio. That's correct.

Commissioner Freeman. Is this true of your program also?

Mr. Hungerford. This is part of the program. This starts with the Assistant Secretary of Health.

Dr. Ossorio. Really with the Office of Management and Budget.

Commissioner Freeman. We want to know who to call.

Dr. Ossorio. Let me give you two factors involved, and this may give you a clue. First of all, there has been, in the administration, a constant decrease in money allocated for these purposes. Therefore—

Commissioner Freeman. When you say "administration," who are you talking about?

Dr. Ossorio. Im speaking about the President.

Chairman Flemming. And you're talking about the community health organizations?

Dr. Ossorio. That's right. Secondly, the way in which the money has been allocated to the region has involved a factor that calls for a measurement of performance in terms of encounters. In other words, we get more money allocated to this region partly on the basis of the number of encounters, and encounter is defined in a very specific way in terms of a specific contact between a health provider and a specific patient. So this represents two kinds of economic pressures on us and on the grantees such as Mr. Atencio. First, that we're cutting the funding down, and, secondly, whatever funding is allocated is based partially on this kind of measurement of performance of viability.

Mr. Dorsey. Can I interrupt? I think you're going to border an issue that is very important—a definition of encounter operates so as to decrease the delivery of services to elderly persons; is that correct?

Dr. Ossorio. What it means is it makes outreach a kind of an overhead that is in a sense really not reimbursable.

Mr. Dorsey. That would include such things as counseling.

Mr. Atencio. Certainly the outreach in terms of what is needed by the elderly and other age groups not utilizing services, counseling is part of it. The outreach person would need to go to the homes of the elderly or the groups that are not being reached by the program and to spend some time with them and explain what the services are and how they can best be utlized. It really revolves around having people to go and talk to the people and bring them in.

Chairman Flemming. That's not an encounter and you get no credit for that?

Mr. Atencio. That's right. An encounter is usually defined as a direct counter between the patient and the health provider, who is the physician or the physician extender, nurse practitioner, etc.

Chairman Flemming. Could I put it this way—in effect, those instructions tend to preserve the status quo?

Dr. Ossorio.[Nods]

Commissioner Freeman. Are those instructions in writing? Do you have a copy of them?

Mr. Atencio. Apparently the standards are.

Dr. Ossorio. We have definitions of what constitutes encounters and we have a formula.

Mr. Hungerford. Right, we have the formula by which the funds are allocated.

Chairman Flemming. Would it be possible for you to give us a copy of that? Not now, but after the hearing?

Mr. Dorsey. Could we include that with the other requests we made earlier for you to put together the policies or guidelines which serve to emphasize particular age groups?

Chairman Flemming. This would fall within the earlier requests.

Mr. Dorsey. I would ask that Exhibit 4 be expanded.

Commissioner Freeman. It would be helpful if you would include the position. You have ready identified President and the Secretary, the bureaucrats—

Chairman Flemming. The principals in the administration.

Commissioner Freeman. The person in the agency that is responsible for developing the policy and who has input into when it can be changed.

Dr. Ossorio. I wonder if I could make one more recommendation with regard to regulations. In order for the Federal Government to monitor the extent to which compliance is being carried out in any area—not only this, we need to have the appropriate information systems developed. We cannot by law or by regulation get any information from any of our grantees other than what is requested on forms and approved by OMB. Therefore, preliminary to any implementation of this, the regulation should specify the kind of information that is going to be required. Otherwise, we can't do it. We have to go in and sample their records on a one-by-one basis to get estimates.

Chairman Flemming. This is a very important point because within the past few weeks an effort has been made to prevent HEW from obtaining the kind of information that is needed, for example, in connection with the desegregation of schools, and apparently that effort hasn't succeeded, fortunately, but I think your point is very important. As you undoubtedly appreciate, the person that has to take the lead role in the development of these regulations is the Secretary of HEW and the Department of Health Services is going to play a very, very prominent role.

Okay, anything further?

Commissioner Freeman. No.

Mr. Dorsey. If I could say something—you have all brought with you certain documents and data, and if you would, before leaving, submit those to the clerk, we can include those into the record and use them in our final determination.

Chairman Flemming. Just one final question. I would like to ask Dr. Ossorio. I think you talked about the appropriateness of certain services for older persons and even though an older person might learn about the community health organization or the community mental health organization and turn to them, they might find that there are no services appropriate to their needs.

Dr. Ossorio. Let me give you a couple of examples.

Chairman Flemming. Go ahead.

Dr. Ossorio. One of these things that the older people need most is to remain physically active and to remain socially integrated into some kind of social context. Otherwise, they deteriorate very rapidly. If you're thinking in terms of maintaining and improving the health status of the aged persons, the best thing you can do is get them involved in some senior citizens' recreation program, where if he does get sick you will know immediately because you're in touch with that recreational program and you can bring him in. That is preventative work. That is what I would consider an appropriate service with the standby at the clinic, but the major part of the action taking place in the community and perhaps the major part of the work being done by other than health providers in touch with health providers in the clinic—that kind of concept is what I mean.

Chairman Flemming. Another illustration—would you feel that community health organization should take cognizance of a fact that several hundred or several thousand older persons are coming together 5 days a week to participate in the meals program and have health personnel available there?

Dr. Ossorio. Yes.

Chairman Flemming. Let me ask you a question that interests me. If community mental health centers and community health organizations do not provide services that are appropriate to the needs of older persons, is that not another way of discriminating against the older person?

Dr. Ossorio. In a way, yes, except that most of them don't know how to do it.

Chairman Flemming. Then we come back to the circle that we don't have people on the staff that know how to do it.

Dr. Ossorio. I subscribe to the notion that this thing is going to have to go on two horns: one, mandates, such as the Commission can impose through regulations, and another is through the dissemination of knowledge. Both have to kind of get pushed along.

Chairman Flemming. Just take this business of making it possible for health screening to take place at a nutrition site. They do know how to do that. There isn't any expertise that is related to older persons there; although they may identify some health problems that you really don't know how to come to grips with, but you would identify a good many other problems that can be of help to the older person, and it seems to me that where a community mental health or health organization is not taking advantage of that kind of an opportunity, that they are, in effect, discriminating against the older person because they could render a service that they are not now rendering.

Dr. Ossorio. Let me also mention my own personnel opinion that in this area the distinction between the health and mental health tends to disappear and that a lot of these things should be really related activities because, you know, it's one person.

Chairman Flemming. In other words, you're suggesting the desirability of meaningful coordination between community health and community mental health?

Dr. Ossorio. Yes.

Mr. Atencio. I'd like to make one final comment in regard to the matter of reaching out and providing the appropriate services, and just from direct experience, when we developed our program that is exactly what we developed and that is exactly what we are doing. But as the years have gone by and the funds have been reduced, obviously the area that we have reduced have been those that we cannot justify in terms of financial viability of that particular service. So, we do have and have had, I should say, outreach people who have gone to gatherings for the elderly and other people that are not being reached, but when the cuts come and the standards are made in terms of performance, those are the services that are cut out first.

Chairman Flemming. When the Federal cuts come, have you ever made an effort to get some general revenue sharing funds to supplant the direct Federal grants?

Mr. Atencio. Definitely, in our system we have done that in every respect.

Chairman Flemming. And you have had some success?

Mr. Atencio. Much success. In 1973 we had a significant cut as Dean may recall and Dr. Ossorio. The city of Denver made up roughly $2 million of the budget that year from revenue money. They also have appropriated those kinds of funds to build health facilities. So that kind of help has been there. But just the practicality of the situation demands that when you don't have the money, you have to provide those services that you get reimbursement for, and for outreach and those services, the reimbursement isn't there, including under Title XVIII and XIX.

Chairman Flemming. Have you ever asked for general revenue sharing funds to be used for the purpose of rendering health services to older persons specifically?

Mr. Atencio. Not specifically.

Chairman Flemming. We are grateful to you for sharing these insights with us. Thank you, very much.

TESTIMONY OF DR. EDMUND CASPER, DIRECTOR, PSYCHIATRIC SERVICES, DENVER DEPARTMENT OF HEALTH AND HOSPITALS, AND DIRECTOR, NORTHEAST DENVER COMPREHENSIVE COMMUNITY MENTAL HEALTH CENTER; JAMES DOLBY, DIRECTOR, DIVISION OF MENTAL HEALTH, COLORADO STATE DEPARTMENT OF INSTITUTIONS; DR. STANLEY MAHONEY, DIRECTOR, ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION, U.S. PUBLIC HEALTH SERVICE, DENVER; DR. LARRY OSAKI, DIRECTOR, RESEARCH AND EVALUATION, PARK EAST COMMUNITY MENTAL HEALTH CENTER, DENVER

CHAIRMAN FLEMMING. May I ask you gentlemen to stand and raise your right hands, please.

[Dr. Edmund Casper, Dr. James Dolby, Dr. Stanley Mahoney, and Dr. Larry Osaki were sworn.]

CHAIRMAN FLEMMING. We appreciate your being with us.

MR. DORSEY. Dr. Casper, I would like you to state your full name, please.

DR. CASPER. Edmund Casper. I am the director of psychiatric services for the City and County of Denver at the Denver Department of Health and Hospitals. I am also the director of the Northwest Denver Community Mental Health Center.

MR. DORSEY. Dr. Osaki?

DR. OSAKI. I am Larry Osaki, director of the research and evaluation for Park East Community Mental Health Center in Denver.

MR. DORSEY. I do understand, Mr. Osaki, that you have a particular interest in the mental health area as it relates to older Asian Americans, is that correct?

DR. OSAKI. Correct.

MR. DORSEY. Mr. Dolby?

DR. DOLBY. I am James Dolby, director of the Divison of Mental Health of the State of Colorado.

MR. DORSEY. I believe you were formerly–you had a similar position with the State of Texas prior to coming to Denver?

DR. DOLBY. I was deputy commissioner of community services for mental health and mental retardation in the State of Texas.

MR. DORSEY. Dr. Mahoney?

DR. MAHONEY. I am Stanley Mahoney, Director of Alcoholism, Drug Abuse, and Mental Health Administration, of the U.S. Public Health Service for Region VIII.

MR. DORSEY. I would like to start the questioning with Dr. Osaki and Dr. Casper. Under the community mental health center program, community health centers are mandated to develop special programs to help children and older persons. The Commission had found in the course of its studies that few community mental health centers have implemented such programs. What I would like to ask you now is what instructions or guidance have you received from the regional office on establishing service programs for the young and for older persons and what steps have you taken to develop such special programs? Starting with Dr. Casper.

Dr. Casper. In the last 2 years, with the amendment to the Community Mental Health Centers Act, both of those areas are required services for Federal funding of a comprehensive community mental health center. Our center has had the services to children and areas of defined services under existing grants for several years. In regard to the latest amendment, however, we had developed an inpatient adolescent community and a children's day care program, and in 1975 prior to the act we had designated a person who is directly responsible and directly identified to coordinate and be the director of children's services in our center, so that that service could be distinctly identified. The same is true in the area of services to the aging. We have a distinct person who is identified. However, we have also been working closely with the Davis Institute, since it is located within our parent, right across the street from our parent organization, and we will be working closely with the Davis Institute in order to develop further programs in the area of aging.

Mr. Dorsey. In terms of any specific policies or guidelines that have been forwarded to you by the Federal establishment—are there any such policies or guidelines?

Dr. Casper. Yes, the programs, those two programs, are required services under the law.

Mr. Dorsey. Are there any implementing guidelines, instructions in writing, that come from the Region or from HEW headquarters?

Dr. Casper. The only ones that I can recall, other than the general mandated, are the distinct—that the services have to be distinctly identified and have to be present. There should be outreach.

Mr. Dorsey. I wonder if you have them available, if you can submit them for the record.

Dr. Casper. The Federal guidelines?

Mr. Dorsey. Not the regulations but any specific implementing guidelines.

Dr. Casper. Okay.

Dr. Osaki. I don't recall any specific guidelines. I will have to get with our people and check our memos. Basically, our children and adolescent program and geriatric program is a very minimal one. Public Law 94-63, which was passed I guess in 1975, I believe is just beginning in our center to get underway in terms of new programs that are—We have come under conversion grant money which will increase to additional 7 services the existing 5, which would bring us to the mandated 12 services. Children and adolescents is one target population and the elderly is another. We do a minimum kind of counseling. We provide inpatient care and outpatient care but there is no active program. We kind of accidentally walked into a client once in a while who happens to be under 18 or over 65, but it is not a planned coordinated program, per se.

Mr. Dorsey. Dr. Mahoney, to what extent have community mental health centers in the region generally implemented the requirement to have specialized services for children and older persons?

Dr. Mahoney. I would say that all of the centers provide some services to children, less to the elderly. There is not much doubt that the thrust has been the children's area. Under the new law, 94–63, it specifically mentions the elderly and again the children has had a very decided impact. At this point, we have a backlog of applications in this region with centers that have put together a commendable program. We have a backlog of approved grants in the terms of providing these kinds of services to the elderly and the children in particular. I would say that every center has some program in both of these areas.

Let me also add, because I think it is extremely important, mental health, and particularly with the children, less so but still a factor with the elderly, is that a significant amount of work goes on with a child as a focus where the child may be seen just once or sometimes never. The primary work will be done with the parent and will be done with other teachers. Very common. I'd say that at least half of the centers in the region work through the schools. They have contracts from the schools. There are good relationships but none of these kids will show up as client-patient encounters in the figures that are gathered from the centers, so there is a built-in kind of bias there. The same happens with the elderly. Many of the centers have programs in working with nursing homes. We have had special funds in that area. Many centers have made, taken advantage of that. They work with nursing home personnel. The thrust there has been on a consultation kind of basis and working with the teachers, school systems, or the nursing homes rather than directly with the person. This effort does not show up under the usual ways of collecting data.

Mr. Dorsey. To expand on that particular point, we have been told that in evaluating community mental health centers, funding priorities are given to those centers with the greatest number of patient encounters. Now I assume that that means that emphasis, in the terms of creating an atmosphere for funding, is placed on a higher number of patient encounters. On the other hand, it is our understanding that consultation and education services, as you have already indicated, which are most often applied and perhaps to children and older persons may not qualify per se under the definition of patient encounters. What effect does that have in terms of funding for specific programs for the elderly and children, and how does that affect the delivery of services to those two age groups?

Dr. Mahoney. To the best of my knowledge, in this region encounters does not really enter directly under our grant mechanism on the amount of money they get. In fact, we lean over backwards to stress the consultation. Some of this comes from input from the elderly area particularly. There is a stigma in mental health. I have heard it said if you want to go into public service, particularly after the Eagleton affair, I would not go there if I were dying. There is some reality to that in this culture. The elderly grew up in the age of snake pits in mental health. There is a great reluctance, and if there is any bias in the funding picture from our region on the part of the funds, we allocate it is on the side where people will go for help. With the elderly, we stress relationships in the mental health centers with the senior citizen center. The problem we continually run into is that everybody asks us for figures on how many elderly are using the mental health centers. I have figures that I will turn over to the Commission. This is a statement because I do not—I always say the perhaps it is a biased picture in working with the senior citizens center because there may not be a direct contact. These people are not encountered as patients or clients. They have not come for help, and they will not come to the mental health centers, per se. They will relate with mental health people in a senior citizen center.

Chairman Flemming. This encounter test applies to the community health organization network but, as I understand it, is not applicable to the community mental health—

Mr. Dorsey. In the terms of client encounters is not something which you must keep track of in terms of affecting your—

Dr. Mahoney. We kept track of it and they hear about it if the figures are low.

Dr. Dolby. It does play a part because the State reimburse on a contact method, and most of the States now are picking up a greater portion of the community mental health center dollars and are going to increasingly do that if the past trends would continue. We happen to use contact on a cost per unit basis, but we do include consultation education as a legitimate contact, but the big problem you have to identify, in most instances, is the patients or clients and people in the elderly group do not care to be identified as a client or a patient of a mental health center. This becomes a significant problem.

Mr. Dorsey. So then in the terms of encounter it really is a misnomer. What we are really talking about is a contact?

Mr. Dolby. in most instances you have got to have a patient named before you have a contact, and this is a violation of privacy, I think, in some instances.

Mr. Dorsey. It may not have the same repercussions in the terms of federally—

Dr. Mahoney. Federally it doesn't play the same part.

Mr. Dorsey. But it does have an implication in terms of State reimbursement?

Dr. Mahoney. That's correct.

Dr. Osaki. It also plays a part with the State taking the position of the last dollar concept, which then means that if the center receives Federal money then that Federal money needs to be budgeted also on the same unit cost basis as the State applies.

Mr. Dorsey. How would that reflect the contact?

Dr. Osaki. Say your budget is a million dollars—$500,000 from the State and $500,000 from the Federal money. The $500,000 Federal needs to be expended first, and it needs to be expended then under the State formula of reimbursement of the unit cost.

Mr. Dorsey. Still, that transfers the contact interest from State to joint so that it does have a Federal ramification.

Dr. Osaki. Not just Federal money but all other monies.

Mr. Dorsey. To follow up with this, Mr. Dolby, services or age groups are considered priority for the purposes of State plans, and are these priorities currently being met?

Dr. Dolby. We have identified the children and the aged as top priority along with the chronically disturbed patient which we call high risk in developing our State plan which is required by 94–63. We identify and first planned a certain increased in volume of service for children, adolescents, and the aging—25 percent increase for children, 15 percent adolescent, 50 percent increase for aging. This was a target. All the centers were familiar with it. It was approved by the regional office. It was the first-year plan. We have now had subsequent revisions as a result of our first experience. As a result, what we found was that for a variety of reasons we did meet our goals on the elderly. There was a 50 percent increase in service, but when you start from nothing it doesn't take much to go up, so at the present time last year in Colorado, about 8 1/2 percent of the population was over the age of 65 and the community centers served a total of 2 percent of volume in that category, so we are very far from meeting anything which would be ideal, but there was movement and I think it was more of an artifact of history rather than a clear planning effort on our part. In the area of children and adolescents, we have about 35 percent of the population in Colorado which fall into the 19 or younger and 17 percent of our population served in the system, including the State hospital, but primarily the volume comes from community centers were children and adolescents. What happened as a result of our plan and our good intentions was the belief that a plan was to be kept as something sacred. We did increase significantly by a small number of persons in the elderly but in children we went backwards. Children and adolescents we went backward, significantly so; we interviewed and required responses from all of the centers and clinics to determine why this backward step, and they were quite varied, from cutbacks in funding to the school districts picking up some of it, but I think that it is our understanding. And from the center staffs it is probably the lack of commitment. This has got to be a significant part of it. Most of the people don't know how to deal with children or the adolescents; all staff tend toward the preventative system of care, which is what they know usually about verbal adults, and another variable has to do with the fact that from my judgment—actually what I did is I listed about 10 reasons why I think the centers didn't meet these goals, and maybe I should run through them and if you have any questions I will try to respond to them.

Mr. Dorsey. It would be very helpful to our record to at least have them listed.

Dr. Dolby. I think the first, and there are three more important than the other seven. The first has to do with the history of the development of the mental health center movement. It was geared in the early days to deal with adults, the general adult population. The grants were written to do that. This is where most of the staff felt comfortable and what evolved—I think when you review the Nader report on the community mental health center program, I think he has a great deal of comments, perhaps stereotypic, to be sure, but he makes the point that what happened is the public picked up the private model and you ended up with a large number of verbal, young, individuals—and that can't be justified by the data that we have, but at least there is an element of truth in it, and as a result children were not included very much, certainly not the elderly.

I think that we can't draw back rapidly from that prospective. I think one of the great illusions that has been perpetrated during the past 3 years now with the new Community Mental Health Act is the fact that by mandating them in law they will indeed be. When the community centers developed with five basic services, these were developed with moderate degrees of success. When you add seven more basis services by mandate without any subsequent significant increase in Federal funding, you are talking about an illusion. You can't do it, and the minute you are forced to do it you say, what services do you want us to cut back on? That's a legitimate question. It is a painful one. It is political one too, so I think we have perpetrated an illusion that the public law 94-63—a case in point, the State of Colorado increasingly over the years did pick up more and more of community health center tabs, and the legislature is very concerned about why the centers now have to provide seven when they only had to provide five basic services a year ago. They see the bottom of the barrel has opened up and they get very concerned and angry and I think justifiably so.

The second variable, I think, is a very important item and that is the history of the community health center movement for adults. I have already mentioned the expansion to seven new services and I think that's an illusion at the present point. Costs for children's services are higher than they are for adults. I don't have the data on the cost for the elderly. The centers have a long history of following the dollar, and wherever it is most lucrative and you have the probability of getting third party reimbursement, they will follow it. There is increased support for the special education system for children. I think this a significant variable. These, the services for kids, indeed are increasing.

I think that the staff skills, the lack of staff skills is important. That's the second high priority in terms of this list. They don't have these skills. They feel uncomfortable or they don't know what to do, and therefore they are not advocates for those programs or the people, and I think you have to have built in advocacy staff members within the community mental health system. The lack of commitment of management is a byproduct of this lack of training also I believe an experience—the self selection mechanism for children and adolescent and geriatric patients, I think, has been discussed earlier. There is a stigma about mental health. There certainly is among kids. I know this is true for the elderly. I think one of the things, in the area of children particularly, is that community mental health centers is significantly oversold and there is a disillusionment that has set in, and school systems and other systems are beginning to build in their own mental health services because they have not found that they have been given a great deal of satisfaction. Those are in the 10, and I guess I am summarizing my whole presentation.

Mr. Dorsey. I have no further questions.

Chairman Flemming. Could I ask Mr. Casper and Mr. Osaki if, at the present time, you have what might be characterized as an outreach program designed to involve more older persons in the work of your centers as clients or patients?

Dr. Casper. We have contact with agencies that are serving elderly people. We have attempted to identify what elderly people we are not treating. We have no outreach system, per se. We have no accurate recruitment of patients at the time.

Dr. Osaki. We have some outreach that has been occurring in nursing and boarding care areas.

Chairman Flemming. Could I ask each one of you approximately how many older persons are involved? When I ask the question, I appreciate the point that has been made earlier relevant to reliability of statistics of that kind, but what would you say on the average are the number of older persons that are utilizing the services of the clinics?

Dr. Casper. Our statistics are 3 percent of our patient population that are 65 years or older.

Chairman Flemming. Your patient population is what?

Dr. Casper. The total number is 16,000 individuals a year total contacts, which were referred to several times here as 170,000 total contacts a year.

Dr. Osaki. Our client load basically represents about 1.2 to 1.5 percent elderly, and it fluctuates, and roughly about 10 percent children and adolescents. The case load we are carrying actively is 800 clients in any given month. We serve approximately 3,100 folks a year.

Chairman Flemming. I ask this questions to any of the members of the panel. Is Colorado going through period where persons are being discharged from mental hospitals and turned back in the hope that they will relate once again to the life of the community of the State? Are you going through that kind of a program now?

Dr. Dolby. Actually, Colorado was one of the leaders. I don't say leader necessarily is a positive term. We did relieve our hospitals of a number of patients. Their condition, however, is probably worse than it was then.

Chairman Flemming. I was going to ask whether a fairly large percentage of those who have been released are older persons?

Dr. Dolby. Yes, a large number of them. We are using nursing home industries as part of the deinstitutionalization process.

Chairman Flemming. Have the mental health clinics related in any significant way to the older persons who have been released from the hospitals and who are finding it difficult to work back into the life of the community?

Dr. Dolby. In response to the word significant, I would have to say no.

Chairman Flemming. Could I ask whether or not some of your clients come from this group?

Dr. Casper. The majority of our cases are within that group, and the Denver area that our center covers has the greatest proportion of those persons who were returned to the community, although they weren't really returned to the community, they were landed in Denver.

Chairman Flemming. You say a large percentage of your total workload are persons who have gone through that experience?

Dr. Casper. That's correct. The workload of 3 percent above 65. There is a significant percentage of those people who have been in State hospitals, who have been institutionalized, who are now residing in boarding homes and nursing homes in Denver, where we serve them, and apartment and rooming houses.

Chairman Flemming. Is there any kind of a concerted, systematic effort being made to relate to the older persons who have been put through this experience? This is one of the developments that just continues to shock me. I can give you one example in the District of Columbia of a person who was released from St. Elizabeth Hospital, in connection with this program, who had entered the hospital at the age of 18 and who was 73 when he was released from the hospital to go back into the life of the, as far as he was concerned, a nonexistent community. In this case the foster home program picked him up. There has been some progress and I am just wondering, it seems to me here is a group of older persons who definitely are being discriminated against, who are being denied access to the kind of service that they need, and who are in this position because of fatal errors on the part of the Government—I mean putting them in institutions in the first place. I assume the figures hold true here that a fairly large number of persons should not have been in the mental hospital in the first place, but is there any concerted effort, is the Federal Government, does the Federal Government support concerted efforts designed or aimed at this particular group of older persons, who I think are in a tragic position?

Dr. Dolby. I think history will pass its own indictment on what we have done in the name of deinstitutionalization. The division has been severely criticized this year because in its budget preparation for the State legislature, we identified this target group as probably the highest priority of all priorities and what happened consequently is children and adolescents didn't get quite as much visibility, but it is my opinion this is the population that most States and the Federal Government have been supporting for centuries—very severely disturbed people. When we moved toward deinstitutionalization, we moved them back into the community and the boarding houses and many, many institutions in relatively poverty-stricken areas. Denver General happens to have most of these people, and our request to the legislature was for all new funds to go to this target group until we began to give them some relief, and it is in the State plan.

Dr. Mahoney. It is a delicate question. Almost invariably when this issue comes up, I think, primarily, it gets down to the dollars and people want to save dollars. I don't think you can save dollars on them. I don't know whether it is more expensive or less; it is pretty close. I think it is more humane. I think the job can be done in the community, but invariably there is not—there is a tendency in most of the States to want to send the patient back to the community to cut the budget or not to transfer the budget proportionately out to the community to do the job with the increase in the staff that is needed. In this region we worked with Montana. I don't know the reason but somehow Montana really got off on the right foot on this. We are very receptive to help. I think they did a splendid job in going from about 600 in their States institutions down to 400 now during the last year, and they worked out contacts with their community mental health centers. They transferred a proportionate part of the budget to pay for increased staff and facilities, and theirs is the best example of how I have seen it work. In other places it has got to be the problem of "let's try to save some dollars" and the people have suffered, and at this point many people are worse off in the community than they were in the institution because since the fifties most institutions, at least in our region, are pretty creditable places to get treatment in. When they send the patient back to the community without the corresponding dollars, to empty the institutions, you are almost going back to where we were before.

Chairman Flemming. Just one other area that I would like to comment on briefly. We have got 28 percent of persons 65 and over with children that are living in the home of one of their children, 33 percent on top of that are within 10 minutes of one of their children, and another 16 to 20 percent are within 30 miles. In other words, we still have an extended family, very much so, but I gather the literature is pretty clear on the fact that the relationship between the older person and the children is anything but hopeful from a mental-emotional point of view. Do you, as you serve your particular areas, since, or do you have any opportunity to deal with those kinds of situations? Is this something that kind of looms up in your mind as you think in terms of the type of service that you are rendering—I think, Mr. Osaki, you indicated that you have something to say.

Dr. Osaki. In my experience which has been reasonably limited in Denver—I particularly had extensive experience in Los Angeles working with the older folks in the Asian community. I think there are a lot of cultural factors that have to be taken into account. The immigrant group basically in Denver—there is a significant population of immigrants in nursing homes and boarding house care, which is—I suppose the best word would be antitraditional. Historically, the older son would take in the parent, and I have no problem with that, not being the older son in my family. Basically, there is a lot of hostility and significant kinds of feeling of isolation, number one, and number two, there are also feelings of hurt which are very, very difficult to overcome. It is expected that the family takes care of its own, and when it cannot then you find yourself in a nursing home situation. With the Asians, the ultimate insult is to be confronted by a mental health agency. Historically, again, the community takes care of its own. When that fails, outside sources such as a community health center would be consulted, but at that point we have very, very severe kinds of problems.

CHAIRMAN FLEMMING. But it is an area that has surfaced.

DR. CASPER. Most of the patients that we serve who are in this age group do not have any family ties. There is a good reason for that. You are talking about an illness that is perpetuated sometimes by family ties and many times their parents have been mentally ill. Most of the time all of the people who have been in State hospitals, who develop the major mental illness of schizophrenia do not have any family ties. Their families cannot tolerate what has happened to them and their way of life, and it is not only a medical and psychiatric illness but becomes a social illness. There are a lot of factors involved into simply asking the question, do you have a program? There are many, many factors involved in the treatment of such individuals, especially as they age, when you have all of the physical problems, the financial problems, the social problems, and the work problems associated with aging. You put that with a major psychiatric illness and you have a person who is completely isolated, because that is one of the manifestations of the illness they have.

CHAIRMAN FLEMMING. What you are saying is there may be close proximity but no relationship?

DR. CASPER. That's correct.

CHAIRMAN FLEMMING. Is that kind of a challenge to the mental health area, to see whether or not in some situations a relationship can be reestablished? I recognize there is some way out on the spectrum where you just about write it off as a possibility, but as you move through the spectrum, are there situations where the field of mental health could make a contribution and could help to reestablish reasonably?

DR. CASPER. Not with the type of individual we are discussing, not with the type of individuals who have a major psychiatric illness developed at a young age.

CHAIRMAN FLEMMING. Let's move away from that category for a moment to those where an estrangement has set in, where there is not a relationship, and yet where you do have a history of major illness. Is the field of mental health in a position where it could render a service in endeavoring to make more acceptable the relationship between the parents and the children?

Dr. Casper. I think where there has been a prior relationship. I don't think where there has been an estrangement that you are going to get a reestablishment of a relationship. I don't think you are working on a percentage basis. Also you are referring to more of a middle class traditional atmosphere, a family, and a lot of the patients we see in the public sector—we don't see people who have family ties to start with.

Commissioner Freeman. I want to ask Mr. Osaki, with respect to the point he was making, if programs could be consultive to the nursing home that could be funded from public sources—if you would have any recommendations along those lines?

Dr. Osaki. I think that's difficult to really say. I know that Dr. Casper probably is somewhat familiar with Denver. A lot of it depends on the kind of clientele, clientele and the definition we are going to use to define ourselves as mental health centers, and basically I think that's a question. I think the division and the regional office and Denver General are very, very sensitive on how to innovate and be creative and develop new programs, recognizing that the dollar restrictions—recognizing also there is a very heavy involvement on the part of mental health centers, including our staff and including the clients that come in to maintain the status quo—and it is a very, very difficult question to answer. I think they need to be creative. I think there needs to be dollars along with that. I have seen it utilized particularly effectively in Chinatown, L.A., with senior citizen centers, but it is not a recreational kind of facility, setting—management-type apartments, for example, of Federal housing for senior citizens. There are a large number of Japanese and Anglo senior citizens, and this type of thing lends itself to socializing and for people coming together for, like hot food lunch programs, different kinds of social events like going to the movies or whatever, shopping, and this kind of thing. I feel that the critical issue is money. Another major issue, again, I think that Dr. Dolby alluded to, is the skill level of the clinical staff, and tied to that is an attitude of what we are supposed to be doing, who we are supposed to be serving.

Commissioner Freeman. With respect to the skill level that has been mentioned before by one of the earlier panel members—he said that there were very few trained in geriatrics. In this State there are many institutions of higher learning, and even with respect to using the indigenous, can any of you comment on training programs for persons who could become a part of any such program, in addition to the extent to which the institutions of higher learning have reappraised their curriculum to add some such courses?

Dr. Casper. I think it has been brought up about the skill level, but I think that institutions reflect the feeling of society, and our institutions, community mental health centers, are reflecting what society wants. Society has made the priority that the major disturbed person, a major mental illness, should be put somewhere away. The decision was made to put him in a State hospital, and now the decision is made to put him in the back alleys, and that is a low priority. Nonproductivity is a low priority in our society. That's exactly what our training reflects. It is the societal attitudes, and until society changes them, we can't expect institutions to change. We all reflect what society wants.

Commissioner Freeman. You are part of society. What I want to know is the extent to which each of you, as a part of a program, having experienced that program and coming to some knowledge as to what it needs to improve it, what can you then communicate to those institutions for programs that could be changed? What can you do to communicate to the public health service about what public policies need to be developed? We cannot just put it on society because we are society.

Dr. Casper. We can teach the skills but until such time that programs are supported, there is some support from society for the programs, then you can teach skills all you want.

Dr. Mahoney. Let me comment on that because we have strained with that one. We sat down at the university and you tell them this, and Dr. Casper is right. We got a little bit of money. Sometimes you get a bigger bank, but $4,000 in our nursing home project, and I referred to before in helping to train nursing home personnel. Usually we put a little money out from the center, but we sat down with the people of the department of psychology, which is a new school at the University of Denver, and we have got them involved. The amount of learning—now they are working, incidentally, with families of the patients in the nursing home, which gets a little different kind of thrust, and the pressure between the nursing home, the families of the patient in the nursing home and the nursing home personnel—but while the faculty and the students are engaged in providing that service, there is as much learning, there is as much enthusiasm to—this is having more effect on that department, I think, than any direct thing we could do here, because we do not have the training funds to give at the present time in the region. And I would also like to elaborate on that and jump to another point, that I am a firm believer that with all age levels and all groups, the best of mental health is when you involve people positively in doing things with other people and having a say in their own fate. I think that along the lines of the elderly—it bothers me a little bit to look around and while we are not quite in the group that I think should be really deciding what to do with the resources that are available to the elderly, call the shots on which way do they want the money spent, which patterns, and especially I would like to see regulations really mandate the active involvement of the elderly, and I would say a majority on policymaking boards that have anything to do with the elderly programs. The other thing, I think it was the foster grandparents program did more good, and a lot of things that can be done—you are not going to take too many of the elderly into a direct mental health center and work some kind of magic. More can be done by creative programs like that.

Chairman Flemming. What you are saying is that noninvolvement leads to rapid mental deterioration as well as physical, and involvement can work the other way. Earlier I think you threw out the idea that conceivably community mental health clinics should not only be thinking in terms of people who come to them, but also the opportunity that they may have to go to senior centers or go to other places where older people are congregated for other reasons, maybe indirectly as well as directly, and deal with some of those mental problems.

Well, the testimony this morning, including your testimony, simply reinforces a conviction that I have had now for some time that in the area of mental health, older persons have been getting anything but a fair share of the resources that we have got. We need additional resources in the mental health area, but for a variety of reasons they certainly haven't been getting their fair share. We have used 2 percent here in the State of Colorado. I think the best national statistics are 4 percent, or something of that kind. So I mean it is an across-the-board problem, and the fact that they are denied their fair share of these resources, as we pointed out, has tragic results, because I do believe that the profession can make a contribution to the prevention of suicide, and I do believe that the profession can make a contribution to those who are being pushed out of the institutions and into a community that they are in no position to deal with. In terms of today's older person, we have just got tragic results growing out of the fact that older persons have not had a fair share of the total resources we have got in the field, and we do appreciate your coming here and sharing with us your insight from these various levels, and it will be very helpful to us, particularly when we hold our national hearing in Washington. We will know some of the questions to ask that otherwise we might not have thought of. Thank you.

Mr. Dorsey. I would ask each of the members of the panel to submit the documentation which you have brought with you that will be helpful for our deliberation. If you can sumbit that to the clerk, I would appreciate it.

Chairman Flemming. At this time we will be in recess until 1 o'clock.

Afternoon Session

Chairman Flemming. The hearing will come to order. I will ask Counsel to call the next witnesses.

TESTIMONY OF VALIA GUY, 55-PLUS CLUB; GEORGE HACKER, ATTORNEY, LEGAL AID SOCIETY OF METROPOLITAN DENVER AND COLORADO NURSING HOME OMBUDSMAN; JOHN THOMAS, DENVER GREY PANTHERS; ROGER WADE, DIRECTOR, BOULDER VALLEY CLINIC

Ms. Gerebenics. Yes, Mr. Chairman, the panel is all here except Ms. Valia Guy, who is on her way. Would each of the panel members, beginning with Mr. Thomas, identify yourselves.

Chairman Flemming. Just before you do that, I'll ask you to stand and raise your right hand so I can swear you.

[George Hacker, John Thomas, and Dr. Roger Wade were sworn.]

Mr. Dorsey. Would you give your name and your organizational affiliation, if any?

Mr. Thomas. John Thomas. I belong to the Denver Grey Panthers.

Dr. Wade. Roger Wade. I'm director of the Boulder Valley Clinic.

Mr. Hacker. George Hacker. I'm an attorney with the Legal Aid Society of Metropolitan Denver. I'm the Colorado Nursing Home ombudsman.

Mr. Dorsey. Thank you. Mr. Hacker, we'll start with you. I understand that you feel there is and have identified some age discrimination within the Medicaid program, and I was wondering if you could elaborate on that?

Mr. Hacker. Certainly. I think that age discrimination does exist in the Medicaid program. I'm not certain whether it rises to the point of being violative of the Age Discrimination Act of 1975. However, I perceive several problems particularly relating to my clientele, who are all nursing home residents in the State of Colorado.

Essentially, these are the ways in which the Medicaid statute discriminates against elderly persons who may have some contact with nursing homes: number one, the Medicaid statute and regulations provide a very broad program of early periodic screening, diagnostic, and treatment for persons between the age of zero and 21 who are AFDC children. The apparent purpose of periodic diagnosis and screening for these young persons is to get at health problems before they become worse and thereby keep those persons from developing chronic diseases which will require greater public expenditures later in their lifetimes.

However, for the elderly who have certain conditions that set on with age no such program exists, and in that sense persons who might well benefit from screening at advanced age, and thereby be capable, through treatment, of maintaining themselves in their own homes or in alternative living situations, are funneled into nursing homes, where many of them don't belong and where many of them might have been able to avoid that situation.

Secondly, that process is exacerbated by the failure of the Federal Government to take an active—under Medicaid to take an active leadership role from the very beginning in the long term care area to provide alternative living situations for the elderly, and particularly the ill elderly. Too many persons are involuntarily placed in nursing homes, where our public dollars are not necessarily well spent.

Thirdly, when people get into nursing homes, we must examine how the care is provided for those persons, and there are several estimates, ranging up to 90 percent, that that amount is the care which is provided nursing home residents by unskilled, untrained, poorly paid, and sometimes and very often transient nursing home aides. And I think it's appalling that we've let a system develop which results in that involuntary placement, which might have been avoided through proper medical and psychological screening, and then put the same people at the mercy of untrained persons who just do not have the capabilities to provide the best care that this country can afford and provide.

Mr. Dorsey. Thank you.

Dr. Wade, I understand that you have uncovered some different sorts of age discrimination within the Medicaid program. Could you tell us about those?

Dr. Wade. Yes. I'm very much involved in dealing with teenagers and young people a great deal, both through our clinic and also through a sex education course in high schools around the Denver area, and what we've run into time after time is teenagers saying that they have difficulty in getting funds to obtain birth control and also to obtain abortions.

Now, there's two situations generally. One is a situation where the teenager is a member of a family on Medicaid. In that kind of a situation, problems arise in two ways. There is such a thing as a fraud check done by sending home to the parents a list of services and charges and so on to see if the parents have other sources of insurance and so on. In Denver just recently a case occurred where, through one of these fraud checks, parents found out that a teenager was using birth control, and it caused quite a problem. This is, so far as I am aware, a breach of the teenager's right to privacy, in regard especially to medical records.

Another problem is welfare workers sometimes take it upon themselves—this is not the fault of Medicaid—but welfare workers sometimes take it upon themselves to inform parents that their teenage children are seeking or have obtained birth control through one of the Planned Parenthood or Tri-County or another clinic in the Denver area. This causes a lot of fear among teenagers that if they go to obtain birth control, even though it is covered by Medicaid, if they are of a Medicaid family, that this is going to be disclosed to the parents. There's a lot of talk about this among teenagers, and it discourages them from obtaining birth control.

The second situation, and in some ways I think a more difficult one and much more complicated, is the teenager who is not a child of parents who are on Medicaid. Sometimes when these teenagers present themselves at a family planning clinic, they are given forms to take home to their parents to obtain a financial statement from the parents so that they can receive Medicaid.

Well, in many cases that is exactly what these teenagers don't want to do, is get their parents involved, so they are effectively prevented from getting any Medicaid funds in that kind of a situation. If their parents don't qualify for Medicaid, they usually, almost without exception, cannot qualify themselves unless they are emancipated minors. In that kind of situation, then, they would not be able to obtain funds to get birth control, either.

Of particular concern to me is that these decisions are difficult ones for teenagers to make in the first place. There's a lot of talk now around the Nation, and I know in HEW, of concern about the rising pregnancy rate among teenagers. It seems that we should try to strike down any barriers in the way of teenagers obtaining birth control. One study of pregnant teenagers showed that 31 percent said that they could not obtain birth control.

Now, there are a lot of other reasons involved there, but certainly the difficulties that teenagers run into when they approach a family planning clinic and try to get Medicaid certainly deters them from going through and getting birth control.

Ms. GEREBENICS. Thank you. Mr. Thomas, could you address the same problem of age discrimination in Medicaid, as you perceive it?

MR. THOMAS. Let me state first that the Grey Panthers is a volunteer organization of voluntary workers. We do not keep any statistics, so I can't give you any statistics, and I don't think that I would if I could, but we do have a great many older people call us up and tell us some of their problems.

In addition to this, I might state that I'm a member of the State Health Facilities Advisory Council, and some of the applications that come into us for nursing homes state very bluntly that the reason that they want more nursing homes, more nursing home beds, is that a certain number of people in a certain number of years will reach the age of 65. In other words, the sole criteria is that they become 65 years of age; therefore, let's put them in a nursing home. Now, the Grey Panthers as such are not against nursing homes. We are against placing any older people in any institutions unless it can be shown that they need that and that they are not there merely on an economic necessity.

One of the other things that I think we run into is so often the people in charge of health affairs or health institutions involving older people—generally the pattern is perhaps a white Anglo-Saxon under 30 years of age. Now, I have nothing against white Anglo-Saxons under the age of 25, or under the age of 30, because I used to be one, but sometimes I wonder why we cannot take older people where older people are involved, particularly in nursing homes, and have them in there at least as consultants. Why can't we appoint older people to more of these boards, as volunteers if necessary?

I'd prefer that they be paid. It seems though that there is a tendency to call upon older people for volunteer jobs, but on the jobs that pay something, why, let's give it to somebody else, but in any event, I think that State agencies ought to consider putting older people in consulting positions, in particular situations where older people are involved, and I'm talking about nursing homes in particular.

I sometimes think that older people are somewhat bypassed in the treatment by physicians and perhaps by hospitals on the theory, "No, treatment won't do them any good," or, as I've had some doctors say to me, "Well, if you were younger, we'd do this, but since you are older, there's not much use of doing it." So, summing it all up, I think in the field of health under Medicaid there ought to be more older people participation.

We ought to be thinking more about spending Medicaid money to keep older people in their own homes, and let's don't make mental or physical cases out of them before they get any help under Medicaid or Medicare.

Ms. GEREBENICS. Thank you. Mr. Hacker, I wonder if you could elaborate on that and perhaps discuss some other alternatives to institutionalization, besides home living.

MR. HACKER. Certainly. Just to go back one step, one glaring example of the inequities that exist in the Medicaid statute, which results in premature or unnecessary institutionalization of older persons, is the fact that Medicaid statute, while it requires each State medical assistance plan to provide skilled nursing facility services for Medicaid eligibles, it does not provide that each State medical assistance plan also provide for eyeglasses, prostheses, hearing aids, and dentures, just to name a few, and those are some of the services or some of the health benefits which might be very influential in keeping people out of institutions.

I think that the Commission ought to, as part of its responsibility, identify areas where by oversight or by economic decision or by just plain ignorance, statutory requirements have a discriminatory effect on the elderly, whether the discrimination was intended or not.

To get back to your question about other services that might be available to avoid institutionalization of older persons: number one, massive outreach to advise persons of the availability of Medicaid in the first place. There are many people who are not in the program who ought to be. In fact, probably the persons who need most to be on Medicaid are not.

In order for people to get to Medicaid services, a certain amount of transportation or assistance is necessary. It's necessarily difficult for an elderly person who can walk only slowly to spend a third or a half of his or her spending money per month for a cab ride across town to go see the doctor.

Those are some of the areas in which the program should act, in terms of assisting people to reach services or to recognize the availability of services, but as far as alternatives to institutionalization other than group homes, I would suggest the further investigation of—and I don't like the word day care centers for the elderly—but the further investigation of some greater emphasis on communal activity for the elderly and elderly housing, which also has a health component on, as I said, some kind of periodic diagnostic screening and treatment program to keep people in their homes, on home health services, and home care services.

Recently in Colorado, the Department of Social Services decided that home care services, which are services not of a medical nature but those which enable persons to stay in their homes, would only be available to SSI eligibles, regardless of the fact that other persons might have the same problems and very limited income in order to maintain themselves. Home care services and auxiliary services or auxiliary health services ought to be made much more available to keep people in their own homes.

I'm going to leave the rest of the answer to other people.

Ms. GEREBENICS. Thank you. Just one moment. Another witness has joined us, Mr. Chairman.

CHAIRMAN FLEMMING. Would you stand, please, and raise your right hand?

[Valia Guy was sworn.]

Ms. GUY. Sorry to be a little late.

Ms. GEREBENICS. Could you identify yourself for the record?

Ms. GUY. I'm Valia Guy from Thornton, Colorado, or Adams County.

Ms. GEREBENICS. And organizational affiliation?

Ms. GUY. 55-Plus Club, and I filed an RSVP and volunteer in almost everything.

Ms. GEREBENICS. Ms. Guy, we are discussing age discrimination in the Medicaid program just generally, and I was just wondering if you had anything you had to add to the discussion.

Ms. GUY. I don't know what you have all discussed, but I have been having problems with it ever since I lost my husband 6 years ago. With my emphysema, and I don't have any health insurance of any kind, and it seems like every time you go down for a spindown, you have to have so much money, and then when you get a raise in Social Security, they raise it that much more, and I don't know how I can pay for medicine and then pay my public service bill and everything else, and it seems like it's discriminating against us, and I'm not the only one. Mine isn't as much as some of the other senior citizens that get less.

Ms. GEREBENICS. Is this directly attributable to age problems in Medicaid?

Ms. GUY. Yes, anywhere from 60 or up, or 55 up. You would be surprised at the people that have medical—$50 a month and can't get help like this.

Ms. GEREBENICS. Thank you. I have one further question for Mr. Thomas. We were discussing a minute ago with Mr. Hacker outreach and transportation and various ways that people could have access to various social services, and I understand you used to work for an insurance company and that one of the major problems in providing transportation to older persons is that groups that attempt to do so are unable to get insurance for that purpose. Is that true?

MR. THOMAS. Well, I wouldn't want to make that statement that broad, but we have run into instances where certain insurance companies put an endorsement on the policy that if a driver over the age of 65 is driving, that they will not cover it. Now, that usually involves driving for nonprofit organizations like churches, maybe social centers.

Now, we have run into cases like that where the private insurance companies are doing that, and at the present time with our limited resources, we are investigating some practices of insurance companies that might indicate they are charging older people more or that they are making excessive conditions like—what I call excessive, maybe they don't—like compelling a person to go to their own doctor and have a complete physical and mental examination before they would either renew or issue a policy of insurance. This—we have nothing definite except a few cases that we are trying to investigate, but we do know that there are companies that put a restrictive endorsement on there that will not let people over 65 drive.

Ms. GEREBENICS. Thank you. I have no further questions at this time, Mr. Chairman.

CHAIRMAN FLEMMING. Dr. Wade, the points that you've made illustrate the fact that this Age Discrimination Act of 1975, although it was made a part of the Older Americans Act, is not confined to discrimination against older persons. It does run the whole gamut, and we appreciate very much your identifying some issues on the other end of the spectrum, and the Commission, as it proceeds with these hearings, proceeds with its study, is going to be taking a look at a number of issues that involve the other end of the spectrum, although, certainly, the Congress did have in mind putting a good deal of emphasis on discrimination against older people, and the fact it was made a part of the Older Americans Act would indicate that.

Mr. Hacker, you, of course, have had the opportunity of becoming acquainted with some very specific situations in nursing homes. Now, your testimony has related to possible acts of discrimination growing out of the administration of Medicaid. Have you identified other situations where, in your judgment, the discrimination is taking place almost solely because of the person's age? The nursing homes, of course, are predominantly made up of older persons, although there are some who have persons with a handicap—or I mean handicapped persons who are younger—but I'm just wondering whether there are any other specific issues you've identified as a result of your experience?

MR. HACKER. I have identified a lot of issues as a result of my experience, although as pertains to nursing homes themselves, I have not come across very much outright discrimination in terms of practices on the basis of age. I think that—

CHAIRMAN FLEMMING. Let me just suggest, or ask, have you dealt with any cases involving the $25 a month allowance for personal expenditures?

MR. HACKER. I was about to mention that, and I'm not sure if that's a particular factor that discriminates on the basis of age, and the reason I think that's a problem is we have had several Social Security increases since the year 1974 when the $25 personal needs level was set. Yet each time, nursing home residents who either receive an SSI check of $25 or are able to retain $25 of their own income have received no more. They have not been keeping up with inflation.

In fact, last week a former client of ours called to loudly protest that $25 didn't even purchase her cigarettes for one month and that she just couldn't make it any more on that, and she's asked us to assist her in an effort to perhaps have nursing home residents also benefit by the increase in the Social Security benefits. And I noted with some appreciation this morning that the legislature in the State of Minnesota recently raised the personal needs level for nursing home residents from $25 to $30 to acknowledge the need that nursing home residents have to keep up with inflation as anyone else would. But on a broader issue with regard to possible discrimination against nursing home residents, I'd like to make the following remarks:

Many nursing home residents, because of their disabilities, because of their age, because of their psychological state and emotional state, being in an institution for the first time, living with strangers, not having much necessarily done to accommodate them to their new environment, are in desperate need of some system, some regularized and very available system of advocacy on their behalf, because some of those people are either incapable or are actually afraid to speak up on their own behalf.

I have had clients that are afraid to ask for a second piece of bread because they feared retaliation, and a regularized system of advocacy, I believe, is necessary to ensure that those persons will receive the benefits to which they are entitled under Medicaid law.

Chairman Flemming. As you read this new law to become effective in January of 1979, if you were dealing with a case where the nursing home had decided to use some of the $25 a month for the purpose of purchasing a wheelchair, or if you were dealing with a case where they decided to use some of the $25 a month to purchase new linens on the ground that it was the individual that was wearing out the linen and, therefore, that $25 should be used for that particular purpose—if you were dealing with situations of that kind, and the two I have identified are two real situations, do you feel that this law would provide additional means for dealing with a situation of that kind?

Mr. Hacker. I'm not certain that it would be necessary, but it does, I think, recognize a general problem in society, that decisions are too often made for older persons without their participation and in their best interest, when their best interest has never been adequately expressed by themselves, and paternalism is a very common problem in nursing homes. It's a common problem in our society when one considers how the elderly are treated generally.

In those two situations I'm not sure that the act specifically addresses those, but if we assume that age and incapacity or age—and I think this assumption is nonsense—that age somehow conjures the fact that one is easily taken advantage of, like one would have been in these situations, then I believe that the act would be helpful, but I'm not sure if that's a proper analogy.

Commissioner Freeman. Mr. Hacker, I would like to ask if you could pursue it from the standpoint of enforcement of the law and the duty of the agency that is providing the funds, whether Federal, State, or local, to monitor and indicate areas in which it seems to you that improvements could be made by the public officials on the same point that you are talking about?

Mr. Hacker. Okay. Number one, I think that it's perhaps the duty of the Commission to initiate a thorough housecleaning—

Commissioner Freeman. Which Commission are you talking about?

Mr. Hacker. This Commission.

Commissioner Freeman. This Commission does not administer any Federal programs.

Mr. Hacker. No, I'm not suggesting it administer programs. I'm suggesting initiating a housecleaning effort on the part of all the Federal programs concerned to identify problem areas. At least go that far, possible problem areas, and then lead to further discussion and further analysis of whether or not those are problems which require remedy under this Age Discrimination Act of 1975. But to get back to your question, in terms of process and in terms of a system of enforcement, I would recommend the following:

Number one, that any system which is based on the individual's right of an appeal or some kind of a complaint regarding unfair treatment because of age discrimination should entail a very, very quick, very simple, very easy, and nonthreatening process in terms of not dealing with a lot of forms, not dealing with a lot of people, not having to wait a long time for an answer, because all of those things discourage the right of an appeal that an elderly person certainly does have.

I would state that's essential in terms of the structure of an enforcement process, that some system of representation for persons be built in to make that process even easier—and we are talking about the same general problems of access to a system that many elderly persons have, and we have to ensure that persons not only will feel encouraged and not threatened by a system of grievance, but also have the assistance necessary to make that grievance meaningful. Specifically, in terms of a system, I haven't given that a lot of thought, but in terms of structure, I would like to see those components built in.

Commissioner Freeman. You mentioned the limitation in the Medicaid law whereby certain needs of the elderly were not permitted by law?

Mr. Hacker. No, that's not what I said. I said that certain needs of the elderly were not required to be parts of State plans pursuant to the Medicaid act. States are perfectly free to provide those services under their Medical Assistance Plan.

Commissioner Freeman. So it's not the law; it's the policy of the law of the State of Colorado?

Mr. Thomas. The law is mandated—

Mr. Hacker. No, the law mandates—I made the point that the law mandates skilled nursing facilities to be provided for a State to receive Federal monies under Medicaid, but the law does not mandate that the State provide those services which might enable people to stay out of institutions. So what I'm saying is that if a law mandates one thing, the law certainly should, in my estimation, mandate other things which would benefit the elderly in a greater way. That's what I'm saying.

Commissioner Freeman. What I'm trying to get at is the point at which there will be the local pressure on the legislature of Colorado that you vote for, that you put in office—when I say, you, I mean the citizens—

Mr. Hacker. Sure.

Commissioner Freeman. What is the point? What would you see that could be done as sort of a partnership? We recognize the limitations with respect to the Federal Government, but this is a tandem situation where Federal and State both have funds. The State is deficient with respect to a certain role that you have identified. What then must be done?

Mr. Hacker. Well, what I'm suggesting is that the Federal Government, perhaps based on a study report which comes out of these hearings, comes out of the studies that have already taken place, encourages the States, either by direct legislation, which isn't possible at this moment, but that the leadership has to be found somewhere to end some of the inequities that I feel exist in the Medicaid statute.

I certainly, for one, would work on a local level to make the necessary changes in the State medical assistance plan, but I think that some leadership from the Federal Government is essential so that persons throughout this country are not treated differently, based on whether they live in Alabama or Colorado.

Commissioner Freeman. Mr. Thomas identified an area in which the insurance companies would not insure the older driver. I would like for each of you who is a lawyer to consider whether perhaps the Federal Government could do the sort of thing it does with the FHA Housing Insurance. Do you see an area in which to improve the program of service to the older citizen that—

Mr. Thomas. Are you asking about automobile insurance?

Commissioner Freeman. Yes. Do you see any area in which the Federal Government could undertake a program similar to its program of insuring the housing loan?

Mr. Thomas. Well, I see what they are trying to do in no-fault insurance by establishing Federal no-fault insurance law guidelines, that if the States don't enact a law similar to that, then the Federal law will apply. I see no reason why they can't do the same with discrimination based on age in prohibiting insurance companies from putting an endorsement on the policy that discriminates on account of age. I see no reason why that can't be done at the Federal level, but I doubt if it ever will be because the insurance companies are regulated by the 50 States, and they have pretty good lobbies up there in Washington.

Commissioner Freeman. Mr. Hacker, did you have anything to add?

Mr. Hacker. I think Mr. Thomas has expanded on what I said about the Federal Government taking some leadership in this area.

Mr. Thomas. Let me mention one thing. I think as far as dental care to the elderly is concerned, up until the last State legislature nothing was done on that, but I think the reason that nothing was done on it is that the Federal Government under the Medicaid law does not mandate that a State do that. They give them the discretion. Now, I don't know why on earth they do that unless it's a fight between the doctors and dentists as to who shall control the operation in the mouth.

Ms. Guy. I'm on that bill, and it is going through—it went through, and Dr. Lamm signed it, and it will be available to everybody in Colorado by October. Where we made the mistake was on Medicaid. Old age pensioners—we forgot the Social Security people, and we are going back to fight that next year to get it, but the dental bill is through, and in Adams County we are having a tricounty—and we are helping people on Social Security—until we get that Social Security—and we got a whole list of names, haven't we, Rene, a bunch of names, so I know we got that whipped about the teeth, and we are going to go back. Senator Gallagher is right behind us, God bless him. People, go out and talk to your senator or mayor for your own town or city you live in and your Congressman, and you get to know them and they you, then they will understand what you need, and I'll bet a dollar to a doughnut that they will pitch behind you, because our mayor did and supported our bill because I was fighting for it.

CHAIRMAN FLEMMING. Is the Adams County Improvement Association an organization primarily of older persons?

Ms. GUY. Old and young both. They don't turn anybody away.

CHAIRMAN FLEMMING. And you are also active and affiliated with an organization of older people?

Ms. GUY. I'm in the 55-Plus Club, Senior Citizen 55-Plus Club in Thornton.

CHAIRMAN FLEMMING. What are some of the other things that that club does?

Ms. GUY. Well, so far we just worked with the dental thing, and we are fighting awfully hard to get a place in Thornton, which I went and talked to mayor and councilmen, and we are getting $5,000 from them, and I hope to see SAA upstairs and match it, and IMB matches that also, and then we'll have a place to go and get our Title VII, which we are fighting awfully hard, and we don't seem to get it, but we are still there.

And another thing we are working on is to try to keep the senior citizens out of the nursing homes, not to leave them there. They have the right to be outside and live like a normal person. When you are not able to take care of them, fine, but if they are a senior citizen, go and see them, and they want to participate in our programs, but let's get them out of there—so we can have Medicaid, Medicare—it's cheaper, I think, by the long run to get a homemaker in that house for that person and keep them out of the nursing home and get their teeth so they can chew food, and I'll bet a dollar to a doughnut that when they get out and get those teeth in, they can work around us a dozen different times.

MR. THOMAS. I would say amen to all of that.

CHAIRMAN FLEMMING. I'm sure you would. I certainly sense a very activist program in Adams County.

Ms. GUY. Right.

CHAIRMAN FLEMMING. And it is consistent with the Grey Panther emphasis, not only here, but throughout the country. I'm very, very appreciative of the leadership that Maggie Kuhn and all associated with her are providing us.

Do you have any further questions?

Ms. GUY. Another thing we have to—we are so good, the Adams County Senior Citizens, that they asked us to be on their task force for next year to help them run some other bills, so young and old are getting there.

CHAIRMAN FLEMMING. You know how to get action out of the system.

Ms. GUY. Right, after you get to know your Senators and your Congressmen, it's beautiful. You understand them and they understand you.

Chairman Flemming. Thank you. We appreciate very much all of the members of the panel being here and providing us with this information. Thank you very, very much.

Ms. Gerebenics. If any of you have any data or documents that you brought to be submitted into the record, if you could give them to the clerk.

TESTIMONY OF MARION SKINNER, ACTING REGIONAL MEDICAID DIRECTOR, MEDICAL SERVICES ADMINISTRATION, HEALTH CARE FINANCING ADMINISTRATION, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, DENVER; DR. GARRY TOERBER, DIRECTOR, DIVISION OF MEDICAL ASSISTANCE, COLORADO STATE DEPARTMENT OF SOCIAL SERVICES

Chairman Flemming. All right. Call the next witnesses, please.

Ms. Gerebenics. The next panel, Dr. Garry Toerber and Mr. Marion Skinner. Mr. Chairman, Dr. Toerber is not here. We'll go ahead with Mr. Skinner at this time.

[Marion Skinner was sworn.]

Chairman Flemming. Thank you, and we appreciate your being here with us.

Ms. Gerebenics. Mr. Skinner, I don't know if you have heard the testimony of the panel before, but we are discussing the Medicaid program and discrimination against older persons, particularly in the way that the program encourages institutionalization, and I wonder if you could comment on that.

Mr. Skinner. I think many of the things that were said in the original panel are correct as far as—

Chairman Flemming. You might pull one of those mikes around.

Mr. Skinner. Most of the things that have been said in regard to the Medicaid law and regulations have been correct. There are certain mandatory services that each State must provide for all who apply for the Medicaid program. Beyond that there is a full list of optional lists which may or may not be provided by a State. It varies from State to State depending on the State legislation passed by State legislators and the program administrators on which of the optional services that will be included, so there are eight mandatory services for each State to the Medicaid program.

There are five basic services required in the initial legislation of 1965: required inpatient hospital services, outpatient hospital services, other lab and exam services, skilled nursing facility services for patients over 21, and physician services. Since 1965 the list of mandatory services has been expanded to include home health care, early and periodic screening, diagnosis, and treatment of children under 21, family planning, and transportation.

Ms. Gerebenics. Are there specific policies within the Medicaid program that you could isolate that encourage, say, institutional care rather than any of the other alternatives that you mentioned, such as the home health care?

Mr. Skinner. No, I don't know of any specific policies that I would relate to and encourage one over the other rather than the mandatory services which must be provided. And the mandatory services, I think—inpatient hospital care, skilled nursing facility care, etc.—are generally used by a larger proportion of the population.

The voluntary services being picked up by the State are those that are not used by the large majority, in some cases, or not *in toto* most recipients of the program. It may hit a larger proportion, but it may not be widespread across the full range of recipients.

Ms. Gerebenics. Could you briefly explain the procedure for prior authorization that is required for some of these services, what that entails and what that procedure is?

Mr. Skinner. It is a State procedure. If the State decides that they want to authorize on a prior basis for various services, then the State may develop such a policy or procedure in the State. It's generally developed because of the State's interest in controlling utilization, or it could be, in some cases, to control expenditures.

Ms. Gerebenics. And what services normally require prior authorization?

Mr. Skinner. We don't require prior authorization from the Federal standpoint, but States, in some cases, you may find a physician service has a prior authorization or you may find dental services prior authorized.

Ms. Gerebenics. What sort of physician services are you talking about specifically?

Mr. Skinner. It would be the emergency services in the State agency are usually provided without prior authorization. The elective procedures that are provided by a physician may sometimes, by the State, require prior authorization.

Ms. Gerebenics. Thank you. Dr. Toerber is here.

[Dr. Garry Toerber was sworn.]

Chairman Flemming. We are delighted to have you with us.

Ms. Gerebenics. Would you state your name and position for the record, please?

Dr. Toerber. My name is Garry Toerber, director of the Division of Medical Assistance, State Department of Social Services, State of Colorado.

Ms. Gerebenics. Dr. Toerber, we are discussing age discrimination in the Medicaid program specifically, and I was wondering if you would like to comment on that? We are particularly discussing it in terms of Medicaid encouraging institutionalization, any policies within the program that encourage institutionalization.

Dr. Toerber. I believe there is a potential bias which exists in the health care community, in general, in terms of age discrimination, institutionalization. I believe, this is my personal opinion, that in some cases the aged who qualify under aid to the aged program are institutionalized without a great deal of their involvement in that decision. I believe that's a function primarily of our society we live in today.

Part of that, perhaps, could be that we do provide free institutionalization, either in skilled or intermediate care for people who do qualify for that program, so I suspect the fact that we provide free care—and I think that our society tends to place the elderly into institutions when that's an option, might lead to that kind of discrimination if that, in fact, is the case.

Ms. GEREBENICS. Could you tell me what services—or how you determine what services are provided under the State's Medicaid program?

DR. TOERBER. Yes, we, of course, have to provide a certain set of benefits under the Medicaid program. Beyond that there are certain optional services which the State of Colorado opts to provide. That function is performed—that decision is made by both the State board and social services for the department of social services and the legislature which passes legislation to provide the set of benefits in Colorado. I think it's a joint decision.

Ms. GEREBENICS. Are these decisions based on the plans and needs assessments?

DR. TOERBER. At this point in time I can't speak as to how it was originally set up, but at this point in time if we feel there was a need, we would certainly research that need and invite input from the general public and determine the impact on health care, the costs of such additional service, and make a determination on that, pending, of course, approval of the legislature to fund the program and the State board of social services to implement what we believe to be an appropriate setup.

Ms. GEREBENICS. As you came in, Dr. Toerber, we were discussing the prior authorization procedure, which Mr. Skinner explained. Can you tell us how you decide what kind of services require prior authorization?

DR. TOERBER. I have never been involved in discussion about that. Since I have been with the Medicaid program, there has been no change in our prior authorization benefits, and I don't think I could speak to how it was done in the past, how that decision was made.

Ms. GEREBENICS. Okay. Mr. Skinner, could you tell me about the Professional Service Review Organization?

MR. SKINNER. We have had some tie in with the PSRO. Now, that is managed in the health care financing administration by the bureau of quality and standards. Now, basically it is developed within States where there is a group of physicians generally that make application to become a Professional Standards Review Organization. This organization, once it is accepted under the Federal rules, then develops a plan for doing utilization review of services within the State, and they carry out their plan for utilization review and report to the Federal agency.

Ms. GEREBENICS. Has this review and the subsequent services monitoring from this organization had any impact on different age groups, noticeable impact, discernable impact?

Mr. Skinner. The initial approach on the PSRO was to do reviews of inpatient hospital care, and then once a PSRO is fully operational in hospital care, the State agencies move to long term care utilization review. Now, a few of our States have started moving into long term care or the nursing home care so they have not been in it long enough to show any decided impact on the aging, where most of the aged recipient group would be found, in the nursing home care rather than the hospital care.

Ms. Gerebenics. Let's see, Dr. Toerber, could you tell me, getting back to prior authorization for just one moment, under the Colorado plan could you tell me what services require prior authorization?

Dr. Toerber. Yes, we currently require prior authorization for dura-medical equipment, implanted equipment, to a recipient. We require it for dental services under the EPSDT—the early and periodic screening, diagnostic, and treatment program—and we require it for hospital benefits outside the State.

Ms. Gerebenics. Specifically, on the first that you mentioned, not the out-of-State care, how was that decided that those services would require prior authorization?

Dr. Toerber. I can't speak to that. That decision was made before I became director.

Ms. Gerebenics. What standards does the State medical consultant use to determine whether a service is going to be paid for by Medicaid or not?

Dr. Toerber. Under a prior authorization program?

Ms. Gerebenics. Yes.

Dr. Toerber. That decision is made by a medical consultant within the fiscal agent—Blue Cross and Blue Shield of Colorado—with the input of our medical consultant in the State department of social services. What is done is to ask information concerning the medical necessity for the particular dura-medical equipment and what the impact on the individual would be of such equipment.

Ms. Gerebenics. Does age enter into this at all, into the medical consultant's decision?

Dr. Toerber. It is certainly not written into our procedures. To the extent that it does, I would have to talk to people that actually do the approach. I feel that, potentially, some decision could be made by individuals on the basis of the person's return to productive capacity, but that is not a criterion which is spelled out in the regulations, and it is certainly not a criterion which the people, when you talk to them about decisions they make, specify.

They are talking about the impact on an individual—if it's beneficial to him, if it would get the person out of a hospital setting into certainly a less costly setting, if it's beneficial to that individual medically and it seems to be the most cost effective thing to do. I think then, certainly, a person would be given that type of equipment.

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Ms. **Gerebenics**. You did isolate employability as one of those, and I just wondered if that was one—do you feel that's being used as a major source of determination?

Dr. **Toerber**. I actually have no information to that effect, but I think certainly returning them to full capacity to function in society, I think probably occurs, but employability, I have no information that that is used.

Ms. **Gerebenics**. Do you believe an age discrimination act, such as that prohibiting such unreasonable age discrimination, when that goes into effect, whether that will change the way you run your program or the way different decisions are made as so services, whatever?

Dr. **Toerber**. Well, I suspect that we would certainly review the Medicaid program in relationship to the legislation, but in thinking about it at the time that I was first interviewed and since then, I do not see any example of unreasonable age discrimination unless, of course, there were changes in the basic program that were instituted by the Federal Government, which we would obviously institute in Colorado. I don't think that we in Colorado now have an undue or unreasonable age determination, to the best of my knowledge.

Ms. **Gerebenics**. Let me ask you this one final question. Because age is used as a determiner of eligibility, what impact do you think that age requirement has on the services as they are rendered?

Dr. **Toerber**. Well, certainly aid to the aged is based upon the age of the individual. They have to be 65 and over to qualify for that category and otherwise qualified, based on income. That certainly provides benefits to the 65-year-old that is not available to the 64-year-old, and I think that should be included in the question of age discrimination.

By the same token, the early and periodic screening, diagnostic, and treatment program is available to the people who are 21 and under, and there are certain benefits to that group that are not available to other people, and both of those decisions are based upon age.

I do think that the EPSDT is set up on the basis of additional services, screening programs, for example, which are more necessary for the younger population, and I think there is a reason for the older population to be given benefits based upon their age, be it a hard, fast 64-65 is not the right decision, but that is tied in fairly closely to retirement age and the income of the invidual clearly impact, so I don't think it's undue discrimination, but clearly age does qualify or disqualify you for certain issues.

Ms. **Gerebenics**. One final question, Mr. Skinner. What do you think of that requirement as far as its discriminatory impact?

Mr. **Skinner**. I think there are some items built into the Medicaid program. Dr. Toerber has talked about the early screening program for children under 21. We have a requirement that of the skilled nursing facility services for the over 21 we have care in institutions for mental diseases for the 65 and older and the younger than 21, so there are certain areas that are built-in that might have an age discrimination impact, although the initial intent of Title XIX was that services would be equally available to all recipients across the board, but there have been legislative changes since that time which begins to carve it up in smaller groups, such as the early screening program, etc.

Ms. Gerebenics. Thank you. I have no further questions.

Commissioner Freeman. Mr. Skinner and Dr. Toerber, are you saying that the early and preventative periodic screening under 21 is a provision of the law?

Mr. Skinner. Yes, if I may—

Commissioner Freeman. The limitation is written into the law?

Mr. Skinner. If I may, Title XIX of the Social Security Act requires States to provide the early screening services for children under 21. I don't see it as a prohibition, but it opens the door for the under 21. It doesn't prohibit a State from providing such services for the over 21.

Commissioner Freeman. Then under the law as it now stands, the State of Colorado could have a rule or a policy of early or periodic screening for all persons under the Medicaid program, without regard to age? It could do so now?

Mr. Skinner. I would say under Title XIX act the State could.

Commissioner Freeman. So then would you respond to—if I would state that it is my opinion that the exclusion of persons over 21 is discrimination on the basis of age, what would be your response?

Mr. Skinner. I don't know that I would agree that discrimination is totally based on age. It would eliminate individuals from age 21 all the way up.

Commissioner Freeman. And what if it would eliminate those persons and the age is the only thing they are eliminated by? Then what other kind of discrimination is it?

Mr. Skinner. I think more than a pure matter of discrimination, I would see it that the State tax base and what the State feels it can afford to provide in the way of services to all individuals, because if the State wanted to go beyond 21 and under—say the 21 and over—then the State would have to provide an equal level of benefits for all eligible people age 21 and up. We could not—

Commissioner Freeman. This is a policy determination. If the State decides that it is going to treat all the citizens equally, then all it has to do is to allocate the funds. Is that not correct?

Mr. Skinner. Allocate the funds and amend the State legislation to include such services as part of their Title XIX program.

Commissioner Freeman. So the State law is prohibitive?

Mr. Skinner. I would refer this question to Dr. Toerber for the specifics on it.

Dr. Toerber. Well, I appreciate Mr. Skinner's comments. As director of the Medicaid program, I believe there are some benefits like the screening which I have—

Chairman Flemming. Pardon me, are those mikes live?

Dr. Toerber. I have been led to believe there are certain benefits which we provide under the EPSDT program which are not reimbursable under other programs. I could be wrong in that regard. I have not researched it directly, and Mr. Skinner is in the business of doing such.

If we determine that such benefits were reimbursable under the Medicaid program in Colorado, and it appeared that such benefits were in the best interests of the patient, we would certainly bring that to the attention of our state board of Social services, and if they concurred, request authorization from the legislature.

Commissioner Freeman. But then is it not correct, however, that individuals who are now denied this right could charge the State of Colorado with denial of the equal protection of the law?

Dr. Toerber. If they could determine that such benefits were on the basis of age discrimination and were unreasonable.

Commissioner Freeman. Well, you have already said they have to be under 21 to get them.

Dr. Toerber. What I said was they have to be under the age of 21 now to get certain benefits. We also have a differing schedule of screening eligibility based upon the age of the individual. For example, we feel—and this is based upon talking to physicians—that persons under the age of 21 require more screening than people that are older, and we change the number of screens eligible under EPSDT based on the recommendations of the physician group.

Once the person gets to an older age, we then think that it is not necessary to get an annual screen, and the medical community concur in this, so what I'm suggesting is we would certainly want to look at the recommendations of the medical community, those people who have made decisions about the necessity for screens, before we would take any action in that regard. I think what I'm saying is that I think age does have an impact upon whether and how often a screen should be provided.

Chairman Flemming. Along this line, the law that was passed by Congress says that the provisions of this title shall not apply to any program or activity established under authority of any law which, A, provides any benefits or assistance to persons based upon the age of such persons or, B, establishes criteria for participation in age-related terms or describes intended beneficiaries or target groups in such terms. Now, that's a provision—

Commissioner Freeman. Which means that this Commission then would probably have to make recommendations that this is an area in which we see unreasonable discrimination.

Chairman Flemming. That it's put outside the jurisdiction of the law, but we might very well want to make a recommendation for a change. Could I ask both of the panel members how you relate through Medicaid to the whole mental health area? We might take it first of all on an overall basis.

Mr. Skinner. Through the whole mental health area, we tend to relate generally through our State Title XIX agencies. They are designated as a single State agency. However, we coordinate with the services, Public Health Service—I'm not sure what they call it—ADAMHA, which is mental health. We do a considerable amount of coordination with this organization to make sure we have all of our Federal resources together and that they are working properly with the various State agencies.

Chairman Flemming. But you are not authorized to use any funds specifically for mental health?

Mr. Skinner. No, we don't use funds specifically for mental health. However, we do participate in the State cost of providing the care.

Chairman Flemming. Right, right.

Dr. Toerber. Well, as part of our program, we provide mental health service benefits in keeping with the regulations, and there are certain regulations which say that people under the age of 21 have certain benefits and certain benefits apply to people over the age of 65, and these are particularly long term care in the mental health area, which in the State of Colorado are principally State institutions.

We have both of those benefits in our benefit package and are providing the Medicaid benefits to those institutions. We also provide benefits to acute care hospitals for short term psychiatric treatment, regardless of the age of the individual.

Chairman Flemming. Could you provide any mental health assistance under the heading of home health care?

Dr. Toerber. There's no preclusion, as I understand it, from providing psychiatric services in the home when it's under the direction of a psychiatrist. We do require that people who provide services who are not psychiatrists, who are psychologists, who are social workers, are under the direct supervision of a psychiatrist, so in the home health area this often requires a psychiatrist to provide care in the home, and we think that's reasonable because of the need for control and utilization review and those kind of quality control issues.

Commissioner Freeman. The early testimony of two of the witnesses said that the psychiatrists would prefer to treat the young attractive female.

Dr. Toerber. I can't speak to that.

Chairman Flemming. Take Colorado as an example. What proportion of Medicaid funds are going into home health care?

Dr. Toerber. I don't have the figures here, but I think it's a relatively small amount like 1 percent or less in home health care. We are actively pursuing providing additional dollars in home health care as an alternative to nursing home care. That's a goal of the State of Colorado. I think it is not dissimilar to goals in other States.

We feel that it is not less costly to provide care in the home, but it may well relate better to the condition and interest of the patient to do so, and we have taken the position that even if it's not less costly and if it's somewhat more costly, it might relate better to the needs of the people, and we are actively pursuing that.

Chairman Flemming. Mr. Skinner, do you have any national statistics on that or regional statistics?

Mr. Skinner. No, I'm sorry but I don't have the figures with me, but I have the same impression Dr. Toerber has. It's a very small percentage of the total expenditure goes for home health care.

Chairman Flemming. That being the case, the Medicaid program from a positive point of view is not making significant contributions to prevention of institutionalization. Is that a fair statement?

Mr. Skinner. I don't think we have reached out as far in the utilization of home health care and other alternatives to institutional care as we could have. We continue to work with State agencies to try to expand home health care and other alternatives, but with the recognition, too, that States have to face the appropriations provided by the legislature.

Chairman Flemming. So the matching on that is—I mean the matching requirement in the State is what, 25 percent?

Mr. Skinner. No, the matching rate is on a formula, and it can range from—I think it's now about 22 percent State funds to 50 percent State funds.

Chairman Flemming. Do you see anything in the existing law that could be changed so as to result in a larger percentage of existing resources going into health care than is the case at the present time?

Mr. Skinner. Well, I see some activities are in process in revising the home health care regulation. Now, I think just the change in the regulation would open the door for more utilization, perhaps, more than a need in the legislation.

Chairman Flemming. What type of change in the regulations?

Mr. Skinner. The change in the regulation is to provide a more liberal definition of home health care, where in the past Medicaid has been held pretty much to the Medicare definition of home health care and the regulations would open it to allow for a broader range of services.

Chairman Flemming. If that were done, if those regulations were changed, is it to your best judgment that more funds would go into home health care, even within the existing resources that are available, total resources that are available for Medicaid?

Mr. Skinner. Yes, sir. It's my judgment more funds would flow into it because it would open the door so States can utilize more resources in providing the care and mean fewer limitations than the States are now faced with, in qualifying for home health care matching.

Chairman Flemming. And are the overall incentives such that if a State is confronted with the option of putting more resources into home health care, which would mean taking away some resources from institutional care, that they would be inclined to move in that direction?

Mr. Skinner. I would say from my discussions with the State agency directors like Dr. Toerber that, yes, they would, and the States would be looking for ways to help individuals stay out of institutional care and help them live better, more full lives within their own homes rather than being institutionalized.

Chairman Flemming. Is there financial incentive there to the State to do that?

Mr. Skinner. I would see a long range financial impact for the State in that fewer dollars would be paid for the inhouse institutional care, freeing up more dollars to provide care outside the institutions.

Chairman Flemming. Would you like to comment on that?

Dr. Toerber. Yes, I definitely think that the States, at least the State of Colorado, would welcome relaxing the regulations to allow for additional care to be provided in the home care arena. I think you would also find that patients who are now housed in nursing homes may well begin to be cared for in their home care setting, and that, of course, is the automatic movement of dollars from nursing home care to home care.

I might add that in Colorado we have a community care organization, a CCO organization, located as an experimental operation in Colorado, in Boulder, Colorado, which is looking into utilizing the total resources of the city and county to provide care to patients in their home which originally were in nursing homes, and this is waiving some of the regulations and some of the benefits we can pay for in demonstrating the ability of the States and the health care provider community to provide home health care to patients that would otherwise be in nursing homes.

Chairman Flemming. That's a very encouraging development, it seems to me. Where is this proposed change in regulation? Is it under consideration at the present time in the office of the Assistant Secretary for Health?

Mr. Skinner. It is under consideration in the Department of Health, Education, and Welfare. Under the previous Secretary there were a series of public hearings held throughout the country.

Chairman Flemming. Right.

Mr. Skinner. And as I understand it, the results of the public hearings are in. Now, I can't speak specifically to the status of the regulation revision after the public hearings.

Chairman Flemming. This is also relates to the issue of to what extent the proprietary groups are going to be permitted to provide home health care and be reimbursed under both Medicaid and Medicare; am I correct on that?

Mr. Skinner. That's correct.

Chairman Flemming. And that was the stumbling block on this, then, or at least that resulted in a great deal of discussion?

Mr. Skinner. Right.

Chairman Flemming. I think I know where that is at the present time, and we could get it and take a look at it. There are a couple of issues tied in here, this issue of, at the present time, the proprietary group cannot be reimbursed for home health care under either Medicare or Medicaid, and the proposal was to open up the regulation on Medicaid in such a way that they could be reimbursed. Then that gave rise to a whole series of questions, "Well, what controls exist to ensure the fact that we'll get a good quality of home health care," and so on. So this is tied in with a couple of rather hot issues—I'll put it that way—but I think it is being looked at again in the light of those public hearings.

All right. Did you have anything further?

Commissioner Freeman. No.

Chairman Flemming. Thank you both very, very much for coming in and sharing your experiences with us. We appreciate it.

Ms. Gerebenics. If either one of you have documents or data that you would like to submit for the record, would you give them to the clerk at this point?

TESTIMONY OF RENE BRERETON, MOUNTAIN PLAINS CONGRESS OF SENIOR ORGANIZATIONS; JANET G. MALLOY, PROGRAM FOR LOCAL SERVICES, VISTA; LYNN PENNETTA, ADAMS COUNTY IMPROVEMENT ASSOCIATION; ALEXIA RUPP, SENIOR CITIZEN; FATHER ROBERT SCHELLING, DIRECTOR, BIG THOMPSON INTERFAITH DISASTER RECOVERY TASK FORCE

Chairman Flemming. Okay. If Counsel will call the next panel?

Ms. Gerebenics. Ms. Rene Brereton, Father Robert Schelling, Ms. Lynn Pennetta, Ms. Janet Malloy.

Chairman Flemming. All right. If the members of the panel would please stand so I could administer the oath.

[Rene Brereton, Lynn Pennetta, Janet G. Malloy, Alexia Rupp, and Robert Schelling were sworn.]

Ms. Gerebenics. Would each of you, starting with Ms. Malloy, give your name for the record and your organizational affiliation or title?

Ms. Malloy. I'm Janet Malloy, Program for Local Services, VISTA, with the Senior Support Services, Denver.

Ms. Pennetta. I'm Lynn Pennetta, co-director of the nutrition grant from Equa-Improvement Association.

Ms. Gerebenics. I understand you are substituting for Ms. Jean Bailey, who was scheduled?

Ms. Pennetta. Yes. She's at a CAP conference at the Stouffer's Inn.

Fr. Schelling. I'm Bob Schelling, director, Big Thompson Interfaith Disaster Recovery Task Force.

Ms. Brereton. Rene Brereton, Mountain Plains Congress of Senior Organizations.

Ms. Rupp. Alexia Rupp, senior citizen.

Ms. Gerebenics. Ms. Brereton, would you tell us what the Mountain Plains Congress of Senior Organizations is and what type of activities you have?

Ms. Brereton. Yes. We are a six-State senior citizen advocacy organization concerned with issues that appear to be problems to older people. We provide no direct service. It's only related to issues.

Some of the things we have been concerned about in the last year have been utility rate reform, availability of revenue sharing in Title XX to senior citizens, Social Security reforms, tax reforms, accessibility of medical care, mostly participation of senior citizens in the decisionmaking process.

Ms. Gerebenics. Do you accomplish that through the legislative process?

Ms. Brereton. Yes. We provide information and do extensive research with regard to legislative issues.

Ms. Gerebenics. Thank you. Father Schelling, could you briefly tell us about your organization and your activities?

Fr. Schelling. Yes. We are a Colorado nonprofit corporation formed to assist the victims of the Big Thompson flood in long-term recovery efforts. That has included the training of [illegible] advocates to know the emotional needs as well as the government and private resources available to them. It has included the coordination of 20,000 man days of volunteer labor.

It has also included the compiling of data used by a number of Government agencies as well as many private agencies, and it has also included the hiring of two VISTA volunteers and a number of employees through the Older Americans Act provisions of CETA to continue on for the next year, probably after our organization goes out of existence.

Ms. Gerebenics. What sort of discrimination on the basis of age has your organization isolated?

Fr. Schelling. As I talked to some of your staff people who came and interviewed me, some of the concerns that we have is that with Small Business Administration loans, the eligibilty of the elderly has given us concern, that is, the 30-year loans given to people age 70 and older. In disaster response the eligibility for borrowing money through SBA automatically eliminates the possibility of them receiving up to a $5,000 grant through section 408 of the National Disaster Act of 1974. It forces them to dig into their life savings many times because they are ineligible for these loans, and another area of concern closely related to that is the borrowing ability of people in their late fifties and early sixties, who have pay back ability at this time, but are facing retirement and the inability to pay those loans within the next 5 or 6 years, and we have quite a few people in that category.

We also have been concerned, particularly, with the actions of the Colorado Land Use Commission and the zoning regulations brought about through the National Flood Insurance program, since this, in effect, zones many of these victims off of their land, and 60 percent of those people that we have as flood victims in the Big Thompson are age 55 and over. Thirty-seven percent of them are over the age of 60, and since we happen to be living in the fourth largest—or fastest growing area in the country—the cost of land is very expensive, and this forces them to look at living in Loveland or Estes Park or forces them to purchase a lot at $15,000. It has also forced them into making decisions that they thought they were through making some 20 years before.

Another aspect of this is the existence, and now under construction, of a HUD housing facility, which is at least publicly stated as being built to assist flood disaster victims. In our files we only show two people interested in such a facility, while it is being constructed to house some 70, and as we deal with the elderly in that disaster area and as we, well, as we work with them, we find that they feel that they were being forced out of the canyon through a collusion of Government agencies and restrictions and into a housing facility that they neither want nor ever intended to take advantage of.

This has also brought about—and one of our concerns, particularly for the older people who need assistance, is that a 6 month moratorium immediately after the flood in order to do a flood plains survey took place—stopping any or much volunteer labor effort.

We are now in a second moratorium imposed by the Colorado Land Use Commission, and in many cases—49 that we have on file and again 60 percent of these are elderly people—we have the volunteers ready to work. We have the finances ready to build for them, but they happen to be in an area where they can't, because of this moratorium, rebuild or rehabilitate their houses that they are living in, and, consequently, by the time the moratorium is lifted, our volunteers will be gone, and the people will be forced into paying for that labor which they could be receiving free at this time.

One of the areas of concern that we have is with the Army Corps of Engineers, which immediately after the disaster a year ago moved into the area, which was virtually inaccessible to the residents themselves, and in many cases we have pictures which we believe document that houses which were far less than 50 percent destroyed were bulldozed down and and hauled away as debris, and this is an extreme difficulty for all of the residents, but particularly the elderly because of the zoning and other actions that have been taken since the disaster. They cannot go in and build back on their land. If the houses had been left standing and had been repaired, then there would have been fewer of these kinds of problems.

I have some documentation which I can give. One of them is that a house marked for destruction by two Colorado Health Department employees estimated that $27,000 damage was done to the house. That would be well over 50 percent. The people are now living in it because they were able to get the destruction stopped, and we have repaired it and put them back in for a total of $6,000.

Ms. **Gerebenics.** Thank you. If you would just give the documentation and data to our clerk at the end of this panel, we'll see that it gets into the record.

Ms. Pennetta, could you tell us about the age discrimination you have encountered in your work with your organization?

Ms. **Pennetta.** Yes. Our community action agency is under CSA, and we are an advocacy agency, and we found—or I have anyway in the work that I have been doing—one part is under the medical services, and we find that the senior citizen is set at age 65 rather than where there are other things that happen to cause these kinds of factors, and you have to realize that there's a certain age—that's not a certain age that makes people elderly or needy. It's more often physical and mental health, life experience, personal tragedy and catastrophies. Therefore, we have a whole segment of the population that cannot get health care, and a lot of people that in order to get on Medicaid have to give up food and heat and shelter in order to pay their bills because of the spindown problem, and I would like to reinforce Ms. Guy's problem earlier that she talked about, and I helped her out with it, and we didn't get very far. We have been through several hearings, and they are all the same. You know, you have to change the law, and it looked like a fine program.

I thought it was great until we had someone go through the process, and according to their 6-months spindown figure, she would have to pay out more than $58.40 a month for medicine, when actually after she pays for utilities, her house, her phone, and her food stamps, she only has $42 left, so these seniors aren't able to take advantage of these programs, whether they be age 62 or 55, depending on what their needs are and what's happened to their family circumstances, especially women whose husbands are deceased or other things, they are really left in a bind where they go without the medical care until they end up in a nursing home and it's paid for there, but they don't want to be there.

Ms. **Gerebenics.** Do you find in your work the problem particularly acute for women?

Ms. **Pennetta.** Yes. I feel it is because there's all kinds of numbers on age, rather than someone being 55 with serious medical problems and her husband dies, where does that leave her? And unless you can put out this money every month which, in Ms. Guy's instance, is 5 percent of her total income per year to the doctor. She would have to pay over that in order to qualify for spindown.

The other thing that we are concerned about is the revenue sharing funds. There's several things that are going on there, we feel, that are discriminating against seniors and older people there, as far as how the money's being spent, and it's my understanding that seniors are supposed to be involved in the hearings and the process of revenue sharing funds, and that isn't being done.

And one thing that we want to make sure that, you know, they say a reasonable effort. You know, what is a reasonable effort? Having them in the county courthouse on the fourth floor with no elevator and no transportation by there or near there, or is it taking the hearings to the people where the people can get involved in it? And we really feel that without strong feelings from people and from the discrimination, you know, to make sure there is no age discrimination at the local level, you know, with these funds and these hearings.

Ms. **Gerebenics**. Thank you. Ms. Malloy, would you tell us about your local services program and what kind of work you are doing, specifically?

Ms. **Malloy**. I would be happy to. I work with the single resident occupant of the downtown hotels in Denver, and I realize that many of you would be fearful to do some of the work that I am doing.

I do go down into the downtown hotels. This does not mean the Brown Palace, Cosmopolitan, and so forth. This does mean the Elgin, the Fairview, the Grayline, the Auditorium, the West, the Kenmark. I do not group them together as one class because they vary according to the management. These are privately-owned hotels which, by the way, I view as a housing discrimination. Why hasn't the Government built a downtown hotel, because it does everything else in the downtown that it wants to? A sleeping room with a hot plate and refrigerator is often what a senior citizen is looking for and wants because they are part of the action in the downtown area.

They do not necessarily want to go into the rural area in a high rise and be away from everybody to watch the birds and the bees. They want to be where the action is and the transportation. This is something I have really found, especially the men. It's the men who want to be where the young ladies are, right. They want to be where there is action, and they feel like a man instead of like an it. I emphasize the sexuality of senior citizens again. We are not its when we are past 55. I'll vouch for it. Right, Mr. Flemming?

Chairman Flemming. Right.

Ms. **Malloy**. I again and again work with, quote, quote, "professionals" who look at people over 55 as things, talk about "they" and "them" and so forth. It bugs the heck out of me because I'm not there, and I wrestled with a sergeant marine son a couple weeks ago, and I say that in many of us, regardless of the number, have a lot of physical capacity that is not used. Why? Because we are allowed to. Women, a woman my age does not run on the street. It's not done. I do it to catch a bus. I cycle on my bicycle. We are not the usual type. We are stereotypes.

I want to say that because of this and that required age of 65 that comes at us, which is me in another 9 years. What am I supposed to do—die on the spot and be breathless and a nonperson at 65? This is not so. I was talking with a 90-year-old gentlemen yesterday, and I said, "Any problems?" "Heck no, I'm having the best time of my life."

I won't buy this thing of dying at 65 because the Government wants me to and retire and sit on my rocker. I'm not a stereotyped grandmother. I don't know how to knit, so I do want to—I am rambling, I realize, the sign of age perhaps, but I have so much to add that younger people do not want to hear.

Sixty-five—that number has to be eliminated as a figure for retirement, a number for retirement. It has to be a personal choice. It is my first requirement of Government. My second thought is that even as a VISTA volunteer I was not permitted to be a patriotic person, there was no flag. The Union—excuse me, I gave myself away. I reverted. There was no United States flag in the room when I took my VISTA pledge. This to me was a very big breach of my patriotism rights as a senior citizen. I was making a public statement of my life for next year, and that bothers me badly because the flag was in the next room. It was a convenience to stay in that room and take the salute.

The other thing is it must be very nice to be 55 and over to be able to volunteer and be a VISTA worker, very nice indeed. Unfortunately, about 4 years ago I was earning $9,000 a year as a site manager of the Title VII program. I'm now getting $4,000 a year. Am I so very different with all this wonderful experience under my belt? I think I have learned an awful lot since having done these things with senior citizens and experienced the growth of the Title VII program, but it's, quote, nice to volunteer when you are an older person. I resent it, although I'm speaking against my employer perhaps.

I'm also saying that this should not be. I am still a worthwhile person, able and willing to work at that capacity that I was getting before. The old age pensioner as a person in Colorado is looked at as a welfare recipient, because the Social Service Department does handle that department as against the esteemed valued worker, the Social Security recipient. Now, this could be a societal thinking, but it is also noticed among the seniors themselves because they are discriminating against each other by that comparison. Where they get their money from should not make any difference when they go to the food stamp office, and the receptionist says, "Old age pensioner or social security recipient?" and they go on different lists. Why? Right from the very beginning they make different appointments for different days, depending on where they get their income from. Surely it should be the amount of their income that determines how they get the appointment for that food stamp appointment.

Also, I had an instance on Tuesday, since I had the word discrimination at the top of my list for the last week, and I was taken out of order at 2855 Tremont. I had a senior citizen with me, and I had asked her to sit down, so I stood up for her. She had a patch on her eye and a cane, so I was her advocate, and the young black lady was taken ahead of me, but I kept talking. I knew I was next, and so the appointment clerk ignored me, and I still kept talking. "Can I have the reeligibility appointment, please, for my client, who is sitting here?" etc., and she said, "You're next," and I said, "Excuse me. I won't make a fuss, but I know that I am next," and this is a very definite age and race discrimination, because I had several people watching me not make a fuss at that moment, but since I'm here, I'll say it out loud, and this isn't the only time it happens, but I was very conscious of the word at that time.

Working downtown with the older men, what are they doing most of the time? Passing the time away, and that often means they become alcoholics, winos, and disreputable people, quote, quote. They are not. They are wonderful people with nothing to do. There's no program that will allow the older man to be worthwhile. He has nothing to do, so, therefore, opening a bottle, not eating, is the easiest thing to do, and in outreach and counseling I find many, many discouraged persons. They would like to work. When they go for employment, they are asked what they did, what they would like to do. There never seems to be any counseling towards a new thought.

Okay. Such things as bridge industries where piecework is given to people to keep them occupied, even part-time, this is one of my suggestions—that in a downtown setting, where people are familiar with the surroundings, that they could be utilizing their talents and not just sitting there drinking and becoming a society problem.

Also, State employment does not have—yes, I have a lot. State employment does not keep any records of discouraged workers, people who go looking for work and get discouraged because they are turned down and no reason given, but everyone knows it's because they look as if they hadn't the stamina to keep on the job or show up regularly. They are not given the opportunity to even try. One 50-year-old gentleman was telling me that he spent $7 the other morning from 4 o'clock on to go from place to place asking for work that he used to do—furniture removing and engineering in the lower downtown area. He had walked all morning from 4 o'clock until 11, and he said they kept telling him that they would have to have a younger person standing beside him to see that he could do the job. Every time he went, again and again, to this firm that he really wanted to get to work at, he said that they had new people there, and he made this comment. He said, "Yes, I have to hire the younger people. I can't have an older person. The insurance company won't let me," referring to insurance. They have to have the younger men with the older men.

Transporation, I have another thought on that. The RTD program, which is receiving Federal funds, linked the elderly and handicapped together in their $5 monthly pass. I wonder why? Does that automatically put the elderly as handicapped? It does in many minds. It is a thought that discriminates against the well oldster and the younger handicapped person. It links them together unnecessarily. I haven't an answer to that, but it has come up to me that it is an unnecessary linkage there, elderly and handicapped.

Also signs down on 16th Street, for instance. I wear bifocals. I have great difficulty in reading the street maps and signs because I have to do this [indicating], and that gets tedious when you are trying to catch a bus and read the map at the same time because bifocals are not the easiest things to wear when you are reading these signs.

The discrimination against the seniors, what really is the high point of all discrimination is the fact that they can only earn $3,000. I think that's right, isn't it? $3,000 over—as Social Security recipient? Why can't they keep all of their earnings? Why can't we all keep all of our earnings, paying back social security amounts, but surely those who want to work ought to be able to work.

Mr. Carter, our President, says in his answer to Vernon Jordan, our goal is for all of us who want to work is to be able to find work so they may be independent, proud, and self-sufficient. Surely this should apply to all age groups, and that is my underlying statement, take off that $3,000 limit.

Ms. GEREBENICS. Thank you very much, Ms. Malloy.

Ms. Brereton, I understand that Ms. Rupp has something specific to add to your program and its development and research?

Ms. BRERETON. Yes, I want to make one short comment and—this is about the Farmers Home Administration—there's a program called the 504 Section, which is designed for rural home repairs, and I think we are probably all aware that there is a high concentration of rural people in this region, mostly a disproportionate amount of older people, and with lower incomes, and this section should be very effective in helping people with home repairs. The program is designed to eliminate home health hazards. You can do roofing, putting in new steps, windows, heating, plumbing, winterization, help keep utility bills down.

I believe this is the first year where they have had a special program designed for older people. In this region there's $40,000 in each of the States designed as a grant program for senior citizens. Checking on the spending of this money midway through the year, if we multiply six States times $40,000, we come up with $240,000 available for the whole entire year. Dividing that by half, since my figures are midway through the year, there should have been approximately $120,000 spent for this grant program for senior citizens.

In six States there was one State who had made loans. North Dakota had granted $3,200, and the five other States had made absolutely no loans to senior citizens—I'm sorry, that's grants. In both of the loans and grants for this region with 50 percent of the year gone, there was 9 percent of the money spent.

I understand that year after year the Farmers Home Administration turns back money that could have gone for rural home repair. One of the problems with this, the difficulty of being able to apply for the loans, also the nonadvertisement of the program. It's especially difficult for women to be able to fill out the forms, to assess the degree of disrepair to the home. It's a very technical matter that I think is especially difficult for older women.

Also, there's a problem, I think, with the attitudes of Farmers Home agents who—I hate to categorize—but they tend to feel that, you know, people should be as independent as possible. I think that probably has something to do with the amount of money turned back year after year. I probably should add that the two Senators from Colorado have just sponsored legislation to increase the amount of staff for Farmers Home Administration, which should help with this.

Talking about the application process and the lengthy problems that older people encounter, I would like Alexia Rupp to make a couple of comments about one problem that she's applied for. I understand it's under HUD, and it's Section 312; is that right?

Ms. Rupp. Yes, I applied for a 312 loan. It will be a year ago this August, and last November 2 I was told I was approved. Then this February they told me to sign another paper. I signed it, and afterwards I realized that it was a cancellation that I signed. Now, since then they have come out several times. I have gone back and forth. They keep telling me they have had to check several times. I don't know. It's a set amount of time. I couldn't tell you the exact time that they have to spend the money to get the house fixed up.

My house really needs to be repaired. I am on a very fixed income. Then they tell me maybe I'm too low. It's a loan that I have to take for 20 years, and I am just not getting anywhere. I'm just getting the runaround.

Ms. Gerebenics. Thank you. Mr. Chairman, I have no further questions or comments at this time.

Chairman Flemming. Let me just follow up on the last statement. You identified it as what, a 312?

Ms. Rupp. 312, yes, sir. I have it right here.

Chairman Flemming. And this is for home repairs?

Ms. Rupp. Yes, sir.

Chairman Flemming. Was this related in any way to a natural disaster?

Ms. Rupp. No, sir.

Chairman Flemming. If you will leave with this—I gather you have a memorandum?

Ms. Rupp. Well, it's the terms and conditions that I got.

Commissioner Freeman. May I ask you, was that application processed through the Denver Housing Authority?

Ms. Rupp. Yes, ma'am. Well, first it was ADCO.

Ms. Gerebenics. Adams County Authority?

Ms. Rupp. Yes.

Commissioner Freeman. Do you know if that was at all referred to the region office?

Ms. Rupp. Well, I heard that it was since taken out of ADCO to HUD in Denver.

Commissioner Freeman. That's what I'm saying. That's the region office?

Ms. Rupp. Yes.

Commissioner Freeman. Do you know where the rejection came? Did it come from the region office or the local office?

Ms. Rupp. Well, I was given a paper to sign here last February the 14, and I signed it. I just figured it was some more papers to be signed for the loan, and then it says I request that my application dated 10-8-76 for an RAA Rehabilitation Loan under Section 312 of the Housing Act of 1964 as amended be withdrawn, and I acknowledge that I shall have no further interest, right, or claim to a loan under the application identified above. I request and authorize a public body to return the full proceeds of RAA Rehabilitation Loan 8DS-22 received by me on 2-15-77 to the Government and acknowledge that with respect to such proceeds so returned I shall have no further interest, right, or claim. I fully understand that I will be refunded any monthly payment that I have made.

Commissioner Freeman. Ms. Rupp, what I'm trying to understand is, at the time that you signed this, it was handed to you. You were not informed of the contents of this?

Ms. Rupp. That's right.

Commissioner Freeman. So, therefore, as far as you were concerned, there was no informed consent to this?

Ms. Rupp. That's right, and then since then they have told me that I have—that they have had another check. This has been going on and on and on. I even went as far as calling Armstrong's office.

Commissioner Freeman. Mr. Chairman, I believe that this is a matter the Commission could at least refer to the appropriate agency for a request for a report.

Chairman Flemming. I agree with you, and I would ask our regional office staff to get the necessary information and then refer it to the appropriate office of HUD for a report back to the Commission, and we'll be very happy to do that.

Ms. Rupp. Thank you.

Chairman Flemming. I was very much interested in the testimony relative to the Big Thompson disaster. I might say that a few weeks ago the House of Representatives, the Select Committee on Aging, held a hearing on natural disasters and their impact on older persons. The testimony came from some people in Omaha and West Virginia and Kentucky, where there have been recent disasters.

The question of the Small Business Administration policy on business loans, borrowing ability, and so on, was raised, and I listened to a representative of the Small Business Administration indicate that some changes were going to be made in order to deal with these issues as they confront older persons. Also, there was testimony relative to experiences with the Department of Housing and Urban Development and then testimony from that Department.

I think the Select Committee on Aging is going to develop a report and make recommendations which are designed to improve the situation. The Administration on Aging has been very much interested in this problem and has tried to relate or have the network relate to these disasters, and I was very much interested in your first-hand testimony as to what has happened and hasn't happened in connection with this disaster. On the HUD situation, I wanted to ask you how far up the line, as far as HUD is concerned, have you pursued the issues that you were talking about in your testimony?

Fr. Schelling. We've gone as far as Washington with it and, in fact, letters and phone calls as well regarding several matters with HUD.

First of all, following the disaster there was the HUD temporary housing, which in the Big Thompson area amounted to some $400,000 worth of temporary housing, which was very effective. The employees handled the situations in a very excellent manner with the exception that—and this perhaps is a legislative problem in that they can't have both temporary housing and a mini-repair going on at the same time, and apparently never the two do speak, as far as those two programs are concerned, and it's decided that either they put people in temporary housing or they come in and do some emergency repairs, but you can't do one or the other or the both in the same area, which is somewhat beyond our comprehension.

A second problem dealing with HUD has been the seeking of a community development block grant for the rehabilitation of homes within the canyon that were partially damaged and also for the relocation of those who were right at 50 percent or more damaged and have to move either up higher into the canyon or to a different town.

Our Interfaith Agency has compiled the statistics used by the county in applying for that CD block grant. The volunteer members on my staff have taken people on three tours, and it was 10 months after the disaster that finally $811,000 was granted for rehabilitation of homes. To my knowledge, through my volunteer effort we had that down to where we only had 10 homes to rehabilitate by the time that the program was ready to go into operation. We asked over and over again that some of that $811,000 be transferred over to relocation funds up to $17,000 per family. That was denied at the Denver level.

Senators Haskell and Hart have been working with us. They met with Secretary Harris and were told that that was an impossibility to use HUD funds for relocation of people. However, $130,000 was released last week to be used, and our figures show 49 families that still need some sort of assistance in order to relocate, in order to get back into a home of some sort, but—

Chairman Flemming. Do you have a memorandum which documents these various experiences that you've had with HUD? If you do have or if you could prepare a brief one, I'd like very much to have you submit it to us so that we could make it a part of the record of this hearing, but so that we can also call it to the attention of the

Secretary of HUD and ask for a report on it in preparation for our Washington hearing the latter part of September.

Fr. Schelling. Yes, sir, I do not have such a document with me, but would be glad to prepare that in conjunction with the Big Thompson Recovery Planning Office, who has been working closely with us on that.

Chairman Flemming. My recollection is that the statistics that you gave at the beginning show that a very high percentage of persons affected were older persons, and you say 37 percent were over the age of 60?

Fr. Schelling. That's correct.

Chairman Flemming. And so it does seem to me that's a very important case history in connection with the Federal Government's ability to deal with the problems of older persons at the time of a disaster, and if you could give us that, then we'll make it a part of the record, but go beyond that and ask for a report on it, because I'm sure it will help to highlight some basic issues which are relevant to any situation where we have a natural disaster.

Fr. Schelling. I'll prepare that and get it to you.

Chairman Flemming. Thank you. The question—I forget which member of the panel—I think you talked about revenue sharing.

Ms. Pennetta. Yes, sir. I have a recommendation I would like to give, also.

Chairman Flemming. I just wanted to call your attention to the fact that under the law extending revenue sharing effective on January 1, 1979, which is the effective date of the law that we have under discussion, discrimination on the bais on age in the handling of revenue sharing funds is outlawed, just as discrimination is on the basis of race, color, sex, creed, and so on, and also that antidiscriminatory statute or section that was put into the extension of revenue sharing is probably as stiff a one as has been enacted by the Congress at any time. Now, that doesn't hold out hope for the immediate present, but I just did want to make sure that you are acquainted with the fact that Congress has taken some action to become effective January 1979.

Ms. Pennetta. Right. Well, I think I included that in my recommendation here, that unless local governments are required to more precisely plan and monitor the spending of the revenue sharing funds for human resources now, we'll not be able to enforce this law prohibiting age discrimination at the local level. Without the means to enforce this law, it would simply be on the books as an idle threat. You say it's stronger. It sounds strong, but when it comes down to it, it becomes an idle threat, and people in need of services being implemented in a variety of Government programs still remain ineligible.

Chairman Flemming. Going back to the revenue sharing act provision, the language is good, and I agree with you that that doesn't mean any thing unless it's implemented, but the ground work has been laid there for some vigorous enforcement activity on the part of outside groups, if it doesn't take place from the inside, and so we won't have to wait until January 1, 1979, identify situations that are having an adverse impact on older persons. My only point is that at that time when this law becomes operative, there will be a few more teeth that can be utilized.

Ms. PENNETTA. I hope so.

CHAIRMAN FLEMMING. Okay. Commissioner Freeman, do you have any further questions?

Ms. MALLOY. Can I add—

CHAIRMAN FLEMMING. We are just about out of time, but go ahead.

Ms. MALLOY. I got to rambling, and there are three items that I would like to include—that in the State employment service they do have an over-40 department, but when I asked for a human service category that I would like to be placed on, they did not have that human service category, and they had nuclear physicists and engineers and this kind of, quote, professional person, but there was no human service category. There still isn't.

The other one, Medicaid, a Medicaid problem was a client received a bill for $1,193. He remembers signing the papers for the Denver Department of Social Services when he had two ribs removed and had to go to a nursing home after a cancer operation, and now Social Security is suing him because they had charged this to SSI. He didn't know any of this detail, but it was for the Medicaid nursing home payment that all the papers were signed for the convenience, and they are suing for this money. We put this in Legal Aid's hands now, because that wasn't for his convenience at all.

Also, the mental health workers from the West Side did not want to continue working with the hotel group that we had begun. They took one look and thought it was too threatening a situation for them to be in and would not come back again. We have now got the Gestalt Institute to take over this group, but it was too threatening for them to be in the downtown area, the Auditorium Hotel.

CHAIRMAN FLEMMING. If I may take that latter one, you mean the representatives of the community mental health clinic did come down?

Ms. MALLOY. Yes, they came once and wouldn't come again.

CHAIRMAN FLEMMING. Took a look at the situation but then said that they were not in a position to—

Ms. MALLOY. To continue.

CHAIRMAN FLEMMING. —to meet the needs of the people in the hotel?

Ms. MALLOY. Right.

CHAIRMAN FLEMMING. Anyone else have any further observations? If not, we appreciate the fact that we have been getting information from those who are dealing with the situation in a very practical and meaningful way at the grassroots level, and we appreciate very much getting your insight, and we also want to express our appreciation for what you are endeavoring to do to deal with the situations. Thank you very, very much.

Ms. Gerebenics. Mr. Chairman, at this time I would like to recommend that, along with Father Schelling's documentation, that this part of the transcript also be made available to the officials for the Department of Housing and and Urban Development for their comment and that the record be left open to include that comment.

Chairman Flemming. Yes.

TESTIMONY OF GUIDOTTA BATES, VISTA VOLUNTEER; ROGER DOHERTY, EXECUTIVE DIRECTOR, DENVER COMMISSION ON AGING; DOROTHY MINKEL, MEMBER, COLORADO COMMISSION ON AGING; DR. GILBERT MURPHY, EXECUTIVE DIRECTOR, SENIORS, INC.

Mr. Dorsey. Dorothy Minkel, Roger Doherty, Dr. Gilbert Murphy and Ms. Guidotta Bates, please come forward.

Chairman Flemming. I will ask you to stand and raise your right hand.

[Guidotta Bates, Mr. Roger Doherty, Dorothy Minkel, and Dr. Gilbert Murphy were sworn.]

Chairman Flemming. We are very happy to have all of you with us.

Mr. Dorsey. Starting with Mrs. Minkel, I wonder if you would state your full name and your organizational affiliation for the record?

Ms. Minkel. My name is Dorothy Minkel. I am a member of the Colorado Commission on Aging. I live in rural Colorado. I was a legislative chairman for the task force on the Colorado Commission on Aging and have lived in Denver to follow the legislators every day in hopes that we could impress on them the need to serve the elderly who are not categorically needy.

Mr. Dorsey. Thank you. Dr. Murphy?

Dr. Murphy. I am Gilbert C. Murphy, and I am the executive director of Seniors. Inc., which is a private, not-for-profit corporation in Denver, primarily serving the needs of the elderly through the federally-funded programs that we deal with. I am also serving with Dorothy on the legislative task force of the Colorado Commission on Aging.

Mr. Dorsey. Thank you. Mr. Doherty?

Mr. Doherty. I am Roger Doherty. I am on the staff, executive director for the Denver Commission on Aging, which is an agency for the City and County of Denver.

Mr. Dorsey. In that regard, you are executive director?

Mr. Doherty. That's correct.

Mr. Dorsey. Ms. Bates?

Ms. Bates. I am Guidotta Bates, and I notice he didn't attempt to pronounce my first name, even though he repeated it after me out in the other room. I am a VISTA Volunteer of America assigned to assist in implementing the programs for the local services for the elderly in Morgan County, and I am one of Sam Brown's children who is Director of the ACTION Program.

Mr. Dorsey. Thank you.

I would like to direct this first question to Mrs. Minkel in relation to the provision of Title XX social services, and in regard to your activities as an advisor on matters of aging, can you describe, if you will, some of the areas in which Title XX operates to discriminate and against which groups and what categories, if you will?

Ms. MINKEL. Title XX was directed to the department of social service, and the department and its way of funding felt that their Title XIX funds were lacking, and so all of the money was used from Title XX for the categorically needy in all of their programs. Probably, well it is true, none of it filtered down outside of that particular area.

Secondly, it is a very discriminatory effort that we have, and it is not true in all States. After checking thoroughly, I found that Colorado is one of the only States, at least in this western part of the country, where no Title funds, no Title XX funds were made available for people who could match some of the needs with their income base.

I would say it is discriminatory against those people, who do not want to spin down to qualify for old age pension, and the generation that I come from, in being a volunteer and consumer at the same time, we are still a very independent and very proud generation, and I feel that in requiring all of the people to spin down in order to qualify for all of the other programs that are available in Title XX or even through our State legislature is the most demeaning thing that we are doing to the people who fall in the crack between $211 and possibly $400. We really are without support in any way, and that's where I come from.

MR. DORSEY. Just for clarification of the record, when you talk about the categorically needy, eligible. You are talking about AFDC and SSI, and in terms of providing services to noncategorically needy, there are such provisions for other groups other than older persons who are noncategorically needy?

Ms. MINKEL. Older persons—noncategorical did you say?

MR. DORSEY. Right.

Ms. MINKEL. No, only what we do through the area on aging. The division on aging which is the recipient of Title III, Title VII, Title V funds are the only areas in which we are able to provide any services out in the State, and those are all, all Federal funds.

MR. DORSEY. In categorically needy?

Ms. MINKEL. We do have, we have no restrictions in our Federal programs. We have no restrictions on income base.

MR. DORSEY. I am trying to get back to Title XX though, on Title XX—

Ms. MINKEL. It is all categorically needy.

MR. DORSEY. But in some Title XX funds, children are receiving on an income-eligible basis; is that correct?

Ms. MINKEL. Yes, it includes them.

MR. DORSEY. I would like to draw that distinction for the record.

Ms. Minkel. Okay. Thank you for helping me out. There is so much that you want to say, you know, and I am trying to be very generous—no, I am trying to be, as they all say, "Now Dorothy, don't do all the talking." I just want to warn you, these people I work with, these two gentlemen, and they always are saying, "Come on, Dorothy." So I will give that privilege to you today.

Mr. Dorsey. Thank you. Dr. Murphy?

Dr. Murphy. As far as I am concerned, she can do all the talking, because she does a much better job than I can do.

There are a couple of points in my experience in Colorado which I think are identifiable as discrimination in the field of Title XX. I want to point out at the beginning of this testimony that I feel that there are some forms of discrimination that have been most helpful to the elderly. Certain kinds of housing have been discriminately built specifically for the elderly, and this had been a helpful thing.

And any legislation that would universally destroy the possibility of some discrimination might, in fact, become detrimental to the welfare of the elderly. There are certain medical, clinical discriminations that are made that are helpful. There are certain food programs such as our Title VII food programs under the Older American's Act which are discriminatory—they serve people over the age of 60. And I think these are helpful matters, and one of the cautions that I would see in this whole process would be throwing the baby out with the bath and allowing absolutely no discrimination at all.

Mr. Dorsey. Of course, as you know, the act with which we are concerned specifically builds in the protection of those programs which were age designated.

Dr. Murphy. And I want to make very sure that we don't forget that, that's my point.

Secondly, in the Title XX experience here in Colorado, there was first a discrimination built into the use of the Title XX funds by act of the legislature. In the original appropriations and in last year's, what we call in Colorado the Long bill which is the appropriations bill for the State, there was a designated $5,100,000 of Title XX money for the developmental disability needs, and $4 million for child day care. The rest of the money was left for discretionary spending at the discretion of the plan and the department of social welfare. I feel this built in a discrimination in the beginning of the use of our Title XX funds which now will continue even though the Long bill this year does not discriminate those particular funds as they were previously. But I am sure those programs and those services that were built in the program originally will continue to be so, and this, in fact, has not treated the elderly with any kind of special earmarking of funds.

Because social services in Colorado, as Dorothy has mentioned, are delivered to the categorically defined. Services to the elderly are classified as adult services. So into the general classification of all adult services would go those two people over the age of 60 or 65, and it is very difficult in the Title XX plan in the State to ferret out exactly what services are being delivered to the elderly or to the senior citizens. This makes it impossible for those of us who like to make a case of discrimination to ferret out enough information from the plan to provide hearing testimony for our department and to clarify how much of this service actually goes to the elderly. There is no specific definition of services for the elderly in the plan. This is discriminatory because it does not allow for analysis of the actual delivery of services to older people.

The flexibility of Title XX rules would allow such services as chore service, daycare service, home-delivered congregate meals, home health aides, home management services, homemaker services, legal assistance, social group services, transporation services to be delivered with Title XX funds. These are what I call hard services in contrast to soft services. This is a personal definition of mine. I am sure it is not universally accepted.

These are the kind of services that senior citizens are most interested in receiving. However, it is to be noted that these are services that are presently not quantitatively available to senior citizens in Colorado. This is a discrimination. It points the Federal dollar to the soft services such as screening, referral, counseling, coordinating, reporting, diagnosing, evaluating, recommending, educating, training, assisting, and securing and utilizing other services, which are normally only of secondary importance to senior citizens.

While one would not underestimate the value of these soft services, and I certainly am not here to criticize those services, the discrimination is that at the staff level, the senior citizens are in need of the hard services and are being given the soft services. This is discrimination that I think needs to be challenged in Title XX in Colorado.

MR. DORSEY. Mr. Doherty?

MR. DOHERTY. I find it very hard to follow that act, partly because I didn't prepare anything. There are a couple of, I think, fairly visible features or aspects in Title XX in Colorado, though, that probably deserve comment that could be called discrimination, but I want to make the same disclaimer that Dr. Murphy made, and that is, in my mind, not all discrimination is bad. There is positive and negative discrimination. There is discrimination of a malicious nature and discrimination that has various positive types of impact.

One of the problems that we have seen in Colorado is that when Title XX came into being, and I hope that next panel will clear some of this up for you even more, when Title XX came into being, Colorado was one of the five States in the Nation which were already at full appropriation and expenditure levels that could match no more money. This State already matched all the money it could. As a result, we haven't had an opportunity in this State to expand services, to experiment with new services, to look with more favor on some of the problems of the vulnerable elderly. In fact, as new groups of vulnerable persons have been identified—and I am thinking primarily of recent concerns and well-deserved concerns for groups such as abused children, perhaps battered wives, and some other groups—services to the elderly have, I believe, eroded as policymakers within the State department have tried to shuffle the funds to respond to all identified vulnerable groups and have found themselves in a position of having to cut services to one group in order to adequately, in their eyes or mind, to serve another group.

Like Dr. Murphy, I am frustrated that in the State plans and other documents that we look at, we find it very hard to factor out to what extent older people get served, either in terms of number of services or in terms of dollars expended. It leaves us at a disadvantage, because we really don't know exactly what that erosion has been, but we do know that it has happened. We know that it has happened in Denver County.

It is not in my mind as malicious as it is, simply acknowledgment of more identified vulnerable movements than existed perhaps a few years ago. That's discrimination. I am not going to make a judgment, however, whether that is a malicious discrimination, a negative discrimination, or a positive discrimination. I just don't know.

I am also concerned that for Title XX purposes, we sometimes in the field of the elderly, in the field of aging, have looked at another source of funds as almost a Godsend. Some of the programs, some of the services that could be funded with Title XX funds may also be funded with other sources of funds, and that's primarily the resources of the Older Americans Act, and most specifically the Title III of the Older Americans Act.

If we look carefully at what has happened in this State, and I am sure it is duplicated in other States, what we are finding is that agencies who are serving vulnerable groups of older people in shuffling for scarce resources are turning to Title III and saying, since you are available, since these resources are available, you are going to have to fund services for the aging, primarily—not primarily, but to some extent out of these funds, and as a result, we are not going to appropriate Title XX funds. To some extent, this may be true of the funds of the Legal Services Corporation and other funds which to some extent duplicate the potential uses of Title III funds. I think we want to use Title III funds in the broadest possible way and in certainly the most priority needs.

I am concerned, however, that Title XX funds may not be used quite to the extent that they should be to serve older people because of the existence of these other funds, and, in fact, in the past I think it is fair to say that the coordination, the joint planning between those sources of funds, Federal funds, have been less than adequate. I think that's changing, and I think you will hear in the next panel from some of the policymakers within the department of social services here in Colorado that there is more joint planning now. Historically, however, it has been somewhat limited, and I think that needs comment.

Mr. Dorsey. I just want to zero in on a couple of things that you alluded to. In terms of erosion, are there specific instances that you could point to that indicate some diminishment of services going towards the elderly?

Mr. Doherty. The thing that sticks in my mind most, and perhaps it is an unfair criticism, but Denver County, for instance, to the best of my knowledge was the last county in the State of Colorado to give up what they called their minor case load for aged persons on their clientele. What that meant is that at one time, when I first came to Colorado, every recipient of old age assistance had an assigned caseworker and was assured of at least one visit, one contact a year for evaluation or other purposes. Denver hung on, and I want to credit Denver County for hanging on to the very last moment on that, until finally other demands on Title XX resources became such that they could no longer maintain that type of case load.

Now, a person, an older person, who is a client of the department of social services in Denver is assigned a caseworker for cause, and that's not really the right terminology, but on the basis of need, and the persons without an identified need are not guaranteed a periodic contact, to the best of my knowledge, not even an annual contact. Now, I hope somebody will confirm or correct me on that anymore. That is an erosion, that is an erosion that occurred largely because other needs were identified and other vulnerable groups were identified.

Mr. Dorsey. There is one other area that you touched upon, and that is the specific allocation, by virtue of stronger lobbying or whatever factors come into play, on other areas of concern within Title XX and the consequent diminishment of resources to this particular area. In that regard, you mentioned also Title III. You have a broad statute such as Title XX which designated to provide services to a broad range of recipients. Now, in separating out one group as deserving, for whatever reasons, less of the share, for example, of that general kind of provision in the statute, and then having to make up for that by specialized funding to meet that particular category. Does that affect the terms of actual delivery of the services?

Mr. Doherty. It does, because of the practicality of the situation. That would make a lot of sense, from the standpoint of public policy, if we could be assured that careful and joint planning took place, and those various resources came down in compliance with that sort of joint planning and that sort of joint allocation of resources. Everybody that I know of in the field is working towards that.

The department of social services and its division of services to the aging are working last year and this year much harder to do joint planning for the Older Americans Act resources and Title XX resources. But I guess I would have to honestly say that we still have a ways to go before we can be assured those resources mesh together in that sort of manner, in that it becomes an adequate public policy that assures that older people are served.

Mr. Dorsey. Thank you. Ms. Bates, in terms of your volunteer work and the food stamp program and other VISTA volunteer programs, have you seen various barriers to the provision of services in governmental programs to actual recipients, that is, getting the money or the programs to the people that require that service? In terms of your experience, what kind of barriers have you identified and some of the problems with getting delivery of services to these people?

Ms. Bates. I think one of the main things is we can't quite get enough volunteers that will come forward and act when you really need them. You have a list of volunteers, and when you go to call for volunteers to act real fast and with something special, like getting people to hospitals and that thing. I think probably that's some barrier, not a great barrier, but it is some barrier to get volunteers to act when you need them the worst, even though we have a lot of volunteers. I do have in our program.

Mr. Dorsey. You suggest in your answer that perhaps transportation might be a large problem in terms of having services accessible to older persons?

Ms. Bates. No, transportation isn't it. It is getting the person themselves to act. We have plenty of transportation. We have cars available to them to use. I have two available to them. They have their own cars. It is just a matter of trying to get volunteers to get out and really act. They have their name down, and they are classed to me as volunteers, but it is a real problem to get them out and to get them to do some of the things that I finally end up doing myself.

Mr. Dorsey. Have you noticed, in your work with the food stamp program specifically, any problems of getting older persons to participate fully in the benefits that the food stamps program does have to offer?

Ms. Bates. Yes, and I will tell you why. I think it is probably—the first thing that we are concerned about is establishing the eligibility, and it is so difficult for them to get this established because of the fact that when they get ready to establish it, they have to have all their income, you know, and the stubs and everything that they might have had relating to income to take. They also have to have help to fill out the applications. Sometimes they can get to the social services to fill them out; however, there are other persons who can help fill out the applications. I do, and I have an outreach worker in the area now working that has been doing this.

But I think the thing that bothers them the most is all the things they are having to tell you about, and say about, and take up there to qualify them for the application. I think this is part of the thing that bothers them the most, getting things ready, getting the application ready, and sometimes they have to go to three different places to get qualified, you know.

They have to have the application filled out at home or in the office or by some of us that are setting up an outreach area where they can come to or be brought to. Then they have to take it to the county court, to social services to have it processed, and then they have to go someplace else to get the stamps, and then, finally, they get so upset over the whole thing, when they are just not really well and not real strong, that they just decide maybe they don't want it at all.

I had one case just like that just before I came up here. She was so upset over qualifying. In order to qualify, she had a little too much money, I think $1,600, and the qualification is either $1,100 or $1,000 that you may have on hand, assets, and the caseworker suggested to her that she take $500 and buy a burial, put it in a burial trust, and then she could qualify.

Well, we did all of this; that's what she wanted to do. She knew where she wanted to go to the mortuary; she knew just what she wanted to do. So, there's where we went. The next morning, I don't know whether she talked it over with her family or what, but the next morning she came back, called me, and said, "I don't believe I want to do that." So then I had to pass it on to the girl that had been doing the outreach work for us in the area.

So, I think sometime families throw a block in it, too. But she was already to do just that and really needed it, but there is many implications that, I think, bother the elderly a great deal. We really have good transportation in our counties, so that isn't a problem.

Mr. Dorsey. Mrs. Minkel, in terms of some of the activities that you have been involved in and your experiences, have you encountered some of the same kinds of problems, barriers to older persons receiving social services?

Ms. Minkel. I think probably one of the ways I came today was with no proof of actual discrimination, only in the Federal regulations and every Federal regulation that comes down. Let me just give you a few.

In the first place, we have never yet, on the Federal Government or any other level of government, agreed on what older Americans are when they reach that age. So now, we come down with programs like 40-plus. We come down with, you can qualify in this area at 50; you can have help in this program at 60; women can retire at 62, forced or unforced—either way, I would say there is discrimination there—65 for men. We are discriminated against, like in regulations. Also, we are discriminated against because the department of social services and a lot of Federal regulations that come down say it is up to the county departments of social service to decide, and as Mr. Doherty pointed out, you have tunnel visions when you are on a county level.

So, you put the funds in the program that you most are interested in, and I call that discrimination against older Americans because we are overwhelmed, as three of us have said, by other pressure groups.

Another thing that I think makes it very, very unfair and makes it very difficult—unless you have worked in match funds on a local level, you have no idea how difficult it is for those of us working in those types of programs—of Federal where you match funds—and in 3 years, you have to be assured that the county is going to be able to take it, which brings me to one of my favorite subjects and that's rural America. The fact that we have more people moving from urban areas into rural, and I look at the hearings you are having and I get panicky, because I really don't feel that I am doing a good enough job for the elderly from Denver to Washington, D.C. There are an awful lot of us clear in that whole area.

But let me just take Colorado. In our rural Colorado, we have an energy impact. We have lots of people that have been moved off, and whether they wanted to or not, off ranches where they were producing, because of an increased tax program brought on by the fact that land has become very valuable, and because of the impact, housing or rents have boosted—I know this is true in urban areas. But put yourself in a town of 300 or 500 or a town like Rangely, which has no water at the present time except what we truck in, where they have been approved for more oil shale development, and they expect 1,500 people before fall. Now that town is a town of 750 people.

Now, a lot of people look at impact, and they say Denver has an impact, for example, but you see in a town of 300 to 500 or 1,500 people, the sewer, the water, the roads, the schools—every bit of living is affected. If you are in an older generation and you have lived in that community, you cannot, on a fixed income, compete with the impact in those areas, the increased costs, the increased school rates. You cannot compete with the increase in taxes.

We do not have a lot of industry in rural America, and probably that is better, except that now we are really being pressured. We are being—since I am on a fixed income, and I can tell you a lot about social security, too, and Medicare, and you know you have to talk to people who have experienced it personally. And I have a lot of respect for all the executive directors and all of the people that we have working in the field of aging, who can tell you what it is like to age, but it is like everything else you have in this life, you have to experience it first.

So, I am saying that my generation of people are paying a price, and you are demanding it of them by making match funds, you are saying to that county commissioner, you have to match these funds, and he has already more than he can handle. We don't have a tax base like that.

Transportation, RTD is great, but when the time comes that we need it in rural Colorado, we really feel, and I have told them this, I will be dead and so will a lot of the other people in my generation. What are we waiting for? We are not doing, we are not reaching, we are not helping my generation one bit. We are going to do it. We are planning. We are researching. We are putting money into training. We are doing all of these things, and the ability to come out and say, "yes, this is going to be where we can help the most"—and I am pleading with you for people on fixed incomes and the rural people, particularly. Well, anyway, there are other Title XX regulations which discriminate against us, especially in this particular area.

The Federal regulation discriminated against us because it made no provision nor did it make any comment about concerns or anything in their program for the elderly, and when Title XX came out in one of our rural areas—that's the plea I make, that you go back to Washington and say why are we not included as one of the emphasis points in Title XX. Nothing says that, and I feel that that's a discrimination in Title XX from the Federal Government.

I think--another thing, we have discrimination in Medicaid. I am sure you have already heard it on not including dental care. The plea to not include dental care, but to look at dental services as part of medical services, and that when you are providing for nutrition programs, you remember the diseases of the mouth affect nutrition and the physical well-being. If we can't treat the diseases of the mouth, then nutrition programs and some of the other things are to no avail. I think we are back about 25 years where we should have been looking at dental services in that way and not just as dentures.

I think it is terrible, isn't it? There is so much I want to say, and we are not fighting urban, we are fighting for the State of Colorado, and I am sure that's true across all the Midwestern States. But, I have a feeling, well, maybe it is because people like you don't come to rural parts of the country. Maybe you are having a hearing in San Francisco; Denver, Colorado; Washington, D.C.; and Florida; but to me, that's not fair. I can come 300 miles to say my little bit, but the people you really should be listening to have no way of getting into the metropolitan areas, and I think you are overlooking the rural sections of this United States. Anything else? That's my lecture for the day.

Another thing we have on nursing homes is the fact that you talk about, you know, we worry about all the people in the institutions and about getting them out, and yet Medicaid does say we have a problem. The Federal Government contributes 50 percent of Medicaid, the State government does, but if I am in a nursing home and I want to go and visit and I am going to be gone for 18 days, who is going to pay the nursing home the difference between the 50 percent that Federal funds will pay and the State does not pay? Now, how are we going to get people out of the nursing homes? How are we going to get them back into society, when the State frowns upon that kind of leave from the nursing home where they are established?

When you are talking about institutionalized living, just go visit nursing homes, and you will know why those of us who are so far healthy and screaming is because that's where I don't want to go, and I want to get out of there if I have to go there. How am I going to get out if I am on Medicaid? What if I want to go visit for 2 weeks, and I think that's discrimination against the well-being of older people, well, oldster clinics the same way.

I am grateful for all the programs that we have, and I think the Federal regulations should be looked at very carefully and not say to me, because you are over 65, we cannot use you in a CETA program, because what would we do with you afterwards? Well, I would like to have somebody do something, so I can do something besides using what small income I have to do what I do, and the only way I can keep well and keep active is by doing for other people, and as you know, volunteers, that's expensive, and when we talk about volunteers in this country, this country can't survive without us.

But we make so many rules and regulations, you can't qualify for anything. I can't qualify for senior aid. I am not going to spin down the little that I have, which is not that much, but it is an insult to tell me that I have to spin down to a certain amount in order to qualify for anything, even if I am a dollar, $10, or $15 over. And those are the people that you are neglecting.

Mr. Dorsey. I must say that you have spoken quite eloquently for those people to be sure.

Mr. Chairman?

Chairman Flemming. At this particular point in the hearing, we are taking a look at Title XX in the light of the Age Discrimination Act. Now, we recognize that Title XX operates under the CETA national ceiling, and then each State has its own ceiling. As pointed out in the testimony, Colorado was one of five States, when Title XX was passed a few years ago, that was already up against the ceiling. Many States at that time were not up against the ceiling. Many of them are very close to it at the present time.

In connection with the administration of the Older Americans Act, Governors have to submit a plan each year, and for 2 years now, last year, I mean, and this year and also '78, they are told that they must include in their plan an action program for interrelating Title XX with the Older Americans Act titles. The reason that regulation was put into effect was that we recognized under Title XX, the Governor of each State makes the final decision on the allocation of the Title XX funds. In view of the fact that the Govenor also must submit the plan under the Older Americans Act, it was felt that we could get better consideration of the needs of the older Americans under Title XX by putting the responsibility on the Governor.

Now, under Title XX, the Governor has got to tell the public what she or he is planning to do. The opportunities to react to that vary from one State to another. I am not familiar with the situation here. But, let's take a State like Colorado that has been up against the ceiling. Now, the allocations have all got a history back of them, and a great deal of that history is pressure on the part of one group or another to get in the picture.

We can assume that some of the decisions that were arrived at in that way probably were not the most equitable decisions and were not always related to pressing needs. So where a State is up against the ceiling, representatives of older persons, public and private bodies within the State that are concerned about these needs, can press for a shifting in the allocations. Of course, the ideal situation is where some additional money is made available to the State where the State ceiling is raised. That gives an opportunity, a greater opportunity, to respond to the needs of older persons.

What I am trying to think of, and am interested in your observation, is how we relate this Title XX, the way it operates, to the Age Discrimination Act? Now, when we are talking about allocation of resources in the field of mental health, we said the fact that only 4 percent of the patients in mental health clinics are older persons makes it very clear that older persons are not getting their fair share of resources, and community mental health clinics that are operating in that particular way undoubtedly will be subject to some action under this new act.

In connection with Title XX, is it going to be necessary to take it kind of service by service, and I will take transportation as an illustration or you can take homemaker-home health aid as an illustration, but, anyhow, take transportation—is it going to be necessary, first of all, to determine or try to make a case that an inadequate amount of money is being made available for transportation? But, then, within that amount that is being made available, to make a case that older persons are not getting their fair share in the rural areas and in other parts of the State, and isn't that a case that has got to be made under the law as it is now to the Governor, and the Governor has got to be persuaded that the older persons are not getting their fair share of the money being allocated for transportation? Homemaker-health aid might be another one. First of all, a case probably could be make in a good many instances that that service, over and against all the other services, it is not getting their fair share, and within that service, are older persons getting their fair share?

I am just trying to think out loud as to how we apply, or could we apply, the Age Discrimination Act to Title XX, the way it functions at the present time. Do you have any thoughts on it, those working with it day in and day out, basically? How about from the standpoint of the city of Denver?

Ms. MINKEL. If you put Title XX and Title III and you are coordinating these efforts—

CHAIRMAN FLEMMING. That's the job of the Governor.

Ms. MINKEL. Okay.

CHAIRMAN FLEMMING. Under the existing law and existing regulation, he is the manager of Title III and Title VII programs. He is also the manager of Title XX, and what comes in under Title III and Title VII, what comes in from him, and he makes the decision on Title XX, that's the reason for putting the finger, so to speak, on the Governors of the State, because they are in that position.

Yes?

Mr. Doherty. Just a quick point. As is always the case in public policy, sometimes what happens between the time that the control of the resources leaves the Governor's hands and it gets down to the local department, it is far distant. I should point out that for several months now, and this is a recent development, for several months now, Title XX planners in the county departments in this region and Title III planners have been meeting together, at least in Denver County, and I am sure that is done throughout the greater part of the State, to attempt to get a handle on this problem and to coordinate this use of public resources.

The thing that kind of worries me in this whole process is whether or not, given scarce resources and overwhelming vulnerable persons, whether or not we can perhaps look forward in the future to a pooling of Title III and Title XX resources. I am not sure that's exactly what we want. I don't think that the framers of that legislation had in mind that they should be pooled and that they should serve indiscriminately to the same groups. I need to go back to the problem that Mrs. Minkel addressed, and that had to do with the ability of Older American Act resources or other resources to serve the noncategorical aged, the nonrecipient of old age pensions and of SSI programs.

Chairman Flemming. There is no means test.

Mr. Doherty. There is no means test. If, in fact, we look forward in the future to pooling of those resources, and I think that's a realistic thing to look very hard at, then we remove, I think, more and more of our ability to serve that larger, broader group of people without a means test.

We see that now a little bit across the State, as Title III funds are to some extent being used to fund projects specifically to county departments and social services—good projects for very vulnerable persons, but projects which get us caught up in how we get away from those means tests. I really don't know what the answer is.

Chairman Flemming. What I am getting at is how do we determine, take both laws as we stand now, how do we determine that Title XX is being administered in such a manner as to discriminate against the older persons? That is, to use the language in the Age Discrimination Act, "No person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Now, it's clear that Title XX is a program under which States and subdivisions and so on receive funds for the delivery of services. It is clear that if it could be established that that was being administered in a State or at the community level in such a way as to deny older persons, as I have used the phrase from time to time, a fair share of those resources, then you would have a basis for saying there is a violation of the Age Discrimination Act. Of course, you can then come back with "What do you mean by fair share?" and at the moment, there are certain areas where you really don't have to worry about defining it too much.

Again, on the mental health, if it is only 4 percent of the people being served are older persons, it is clear that they are not getting their fair share. When you get up to 10, 15, 20, then it gets maybe a little more difficult to define.

Title XX, to my way of thinking, is one of the great opportunities for providing additional services for older persons, and there was a time when there wasn't any real interrelationship between the aging programs or Title XX or its predecessor title. Now, there is a relationship being developed. How do you develop a case of discrimination on the basis of age?

Mr. Doherty. The best I can say is that you have to use some pretty darn arbitrary factors. I certainly wouldn't want to do that.

We have been thrown ever since Title XX came in, we have been thrown into a competitive stance, in which older people have just tried to hold their own, let alone to aggressively seek additional resources, and I have come to the conclusion in my mind that the prospect of older people working into that spectrum and aggressively fighting for a larger share of the resources against a real and very legitimate need of the younger-aged groups and the abused children and the whole spectrum of other groups is not realistic.

Personally, I would be happy if we could just hold our own. I don't think we can make the type of case, given the knowledge that is available to me and most people that I know at this point, that you are seeking.

Dr. Murphy. Mrs. Bates wanted to speak.

Ms. Bates. Am I mistaken to think that the Federal money that is allocated into Title XX is categorized as to the blind, the ADC—it is not categorized any more?

Chairman Flemming. No.

Ms. Bates. It was at one time, and it is not now?

Chairman Flemming. It is a general service type.

Ms. Bates. The whole thing is now, and Title XX, the people that allocate that, it is in their own State?

Chairman Flemming. The person who finally allocates that, the State of Colorado is given an allocation. I don't know what it is, but let's say—

Dr. Murphy. $34 million last year.

Chairman Flemming. Let's say $30 to $40 million. Then, the Governor of the State determines how that is going to be divided up, in terms of the services that are to be rendered and the people who are to receive those services. That's his decision.

Ms. Bates. Well, Title II, Title III, and Title XX—I have a bit of feeling that there is some overlapping of services.

Chairman Flemming. There is a lot of overlapping.

Ms. Bates. There is a lot of overlapping, and I think maybe that is one thing we might direct our thinking to, that we not overlap the services and try to get them straightened out in a way, if it can be done.

Chairman Flemming. I don't want to get into too many issues involving Title XX. What I am interested in, there is—do you feel that Title XX is being administered from the standpoint of older persons, as of today, in a nondiscriminatory manner?

Dr. Murphy. Dr. Flemming, I want to answer yes to some of your questions and no to some of the other ones.

Chairman Flemming. If you will just start with that one, because I think that will keep us focused. As Title XX is now being administered in the State of Colorado, do you feel that it is being administered in such a manner as not to discriminate against older persons?

Dr. Murphy. I do not so believe. I believe it is a discriminatory administration.

Chairman Flemming. Now why?

Dr. Murphy. I am with Roger in feeling that it is not an intentional discrimination that was formulated to hurt older people. It just happened out of the history, some of which came out of the legislative action in this State.

While the Governor does have final authority in the State of Colorado, I believe I am correct in saying that no funds, Federal or any other kind of funds, can be spent in the State of Colorado without legislative direction.

Chairman Flemming. That is true—

Dr. Murphy. Even in the terms of Federal funds, he can suggest; still the Long bill makes the decision.

Chairman Flemming. Even in States where that isn't true, the Governor can be directed to do certain things with Title XX.

Dr. Murphy. Dorothy wanted to be sure that we were aware of the fact that Title XX funds affect less than 8 percent of the elderly in this State.

Chairman Flemming. That's a starting point.

Dr. Murphy. That's a starting point, and I want to answer yes to one of your questions. I think we learned a lot when we went through 30 years of research to discover the discrimination that was being perpetrated upon black people and upon the Chicanos, and this kind of thing, these minorities. We learned that it was absolutely essential that we have the statistics to work with to prove our point, that we couldn't go helter skelter around and make all kinds of statements if we couldn't back up the statements. It is necessary that we have those facts, yes.

The only place that we could get those facts is from the administrators of these programs. I am the first one to hesitate to ask for more paper, but it proved in Title VII that we do need it. We had to come up with the number of people in the various minorities that were being served with our Title VII funds when these funds were distributed. It certainly seems to me that a major portion of our population needs to be identified in the service of these funds.

The other thing that concerns me greatly, I must say, Dr. Flemming—I have not read the Colorado 1978 Title XX plan; I have, of course, read the last one. It is just now available. It is in the discussion stages and being presented for hearings now. But the general picture that is presented in the Colorado plan is one of, here are all of the people that might receive services from Title XX in this particular kind of category of service, let's say, transportation, and then, here is a breakdown of what kind of services we are going to deliver. But, you never come out with any kind of an identifiable picture of how these services were actually delivered, how many units were given to a specific kind of person, and how can you count on what happened at the end of the year. There is no way for us to tell.

I am sure that material is more available than I have been able to put my fingers on, but it is a problem that if we are going to get at discrimination, we have got to have the facts, and we don't have them.

MR. DORSEY. If I can interject for just one moment to point out something that was just raised. There was a discussion about the relative role between the Governor and the legislature. It is my understanding, in this particular program area, there is currently some dispute as to whether or not the legislature is going to make specific line allocations to specific groups?

ALL. Yes.

MR. DORSEY. And the Governor is interested in having more flexibility, and, therefore, being able to change the emphasis or reallocate the resources within the program. Is that accurate?

MS. MINKEL. That is true, Mr. Dorsey.

DR. MURPHY. I think you will have some expert witnesses from the administration who can give you the exact details on that. As I understand, the new plan and the Long bill this year has eliminated those line items.

MS. MINKEL. Unless the court rules otherwise.

CHAIRMAN FLEMMING. We will have an opportunity to make some recommendations to the President through the Secretary of HEW and the Congress as to the kind of regulations under the Age Discrimination Act that might have the effect of correcting any discriminatory results that we are now getting under Title XX.

Commissioner Freeman, do you have any questions?

COMMISSIONER FREEMAN. No, I think you have exhausted it.

CHAIRMAN FLEMMING. I just was very much interested in talking with you about the answers to the questions that I had, because they are not clear to me, and that's one reason.

MS. MINKEL. I wonder when you are talking about coordinating Title III and Title XX—

CHAIRMAN FLEMMING. VII, too.

MS. MINKEL. If you have ever considered coordinating these, there is a possibility that you could extend that coordination as to where the local departments of social service had that flexibility of administering

Title III and VII, and if that was in the thinking of all this background material I have read and the statements I have read, I wonder has it ever occurred to you that there are a generation of people that will not go to the welfare department for anything?

CHAIRMAN FLEMMING. I definitely understand that point of view. I have heard it many, many times, and I am very sympathetic with it personally.

Personally, I feel that when the Congress set up the Older Americans Act and the network on aging in such a way as to do away with the means test, it took a very constructive—constituted a very constructive action. And we have tried to say to the network on aging, here's an opportunity to demonstrate that you can give high priority to low income, to minorities without utilizing a means test. If that can be demonstrated in the field of aging, hopefully, it would be carried over to an area like Title XX.

I personally would like, and I am speaking as an individual now, like to see the day come when there was not a means test applied in connection with Title XX, but that it would be approached philosophically in the same way that Title III and Title VII are approached under the Older Americans Act. How practical that is, I don't know.

MS. MINKEL. I would like to see, one, that we do not compete with the department of social services program; but we do serve those people in Title III and Title VII without designating them as categorically needy. We have no means test whatsoever.

MS. BATES. That's correct.

CHAIRMAN FLEMMING. One example we were discussing with the other panel, the question of natural disasters in relationship to the older persons. As some of you probably know about the relationship, the Older Americans Act is worded in such a way that if a disaster hits a particular community today, they begin to spend Older Americans Act funds for food and other purposes for all age groups.

ALL. Right.

CHAIRMAN FLEMMING. There is a process of getting reimbursed, and so on, but there is no means test or anything else that comes into the picture. There is the opportunity to act very quickly, and I feel personally that that's a desirable way of doing it. But I suspect that when the Age Discrimination Act of '75 becomes effective on January 1, 1979, we are still going to have Title XX and we are going to have a means test in Title XX. I think the thing we are going to have to try to figure out is how we relate that Age Discrimination Act of '75 to Title XX.

MS. BATES. There is always a bright spot among all of this. The national Congress did pass the food stamp bill in the Senate this morning, and it has gone to the House of Representatives. It sounded like, when they passed it and the way they talked about it this morning, that everybody was going to be able to get them, and they ended up saying new eligibility clauses will be put in. But, that's one bright spot for the food stamp program.

Chairman Flemming. That legislation is apparently on its way to the House?

Ms. Bates. On its way to the House, and they thought before the end of the week when they took their vacation that it would be passed.

Chairman Flemming. Thank you very much, we appreciate it.

Mr. Dorsey. I would just like to add that if anyone brought data, if you would please leave it with the clerk, we would appreciate it so that we can include it in the record.

TESTIMONY OF DAVID L. ASHMORE, DIRECTOR, TITLE XX, COLORADO DEPARTMENT OF SOCIAL SERVICES; SHIRLEY HARRIS, SOCIAL SERVICES ADMINISTRATIVE COUNCIL FOR ADAMS COUNTY, COLORADO DEPARTMENT OF SOCIAL SERVICES; RAY MYRICK, JR., ACTING REGIONAL PROGRAM DIRECTOR, ADMINISTRATION FOR PUBLIC SERVICES, OFFICE OF HUMAN DEVELOPMENT SERVICES, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; AND ORLANDO ROMERO, EXECUTIVE DIRECTOR, DENVER DEPARTMENT OF SOCIAL SERVICES

Commissioner Freeman. If the members of the panel would please stand so I could administer the oath.

[David L. Ashmore, Shirley Harris, Ray Myrick, Jr., and Orlando Romero were sworn.]

Commissioner Freeman. Counsel may proceed.

Mr. Dorsey. Starting with Mr. Myrick, would you all please state your names and your titles for the record.

Mr. Myrick. My name is Ray Myrick, Jr. I'm now the Acting Regional Program Director for the Public Services Administration, Office of Human Development.

Mr. Dorsey. Mr. Ashmore?

Mr. Ashmore. David L. Ashmore, director of Title XX, State Department of Social Services of Colorado.

Mr. Dorsey. Ms. Harris?

Ms. Harris. Shirley Harris, Social Service Supervisor Council for Adams County, [Colorado] Department of Social Service.

Mr. Dorsey. Mr. Romero?

Mr. Romero. Orlando Romero, and I'm the executive director of the Denver Department of Social Services, for the city and county of Denver.

Mr. Dorsey. I would like to direct my first questions to Mr. Romero and Ms. Harris. I noted that you were in the audience for the earlier testimony and noted several of the problems raised by those witnesses as relates to the delivery of Title XX services, particularly as they affect elderly persons.

I will ask you if you could comment on the problems of Title XX delivery of services to older persons, and in conjunction with that, if you could talk in terms of the emphasis of the programs and where the allocations of resources has been directed and possibly some of the rationale behind it.

Mr. Romero. I think as Mr. Murphy and Mr. Doherty both mentioned, and who happen at this moment to be under our particular departmental jurisdiction—it's not necessarily true in all the other counties—there is, I think, serious difficulties in attempting to try to provide services that elderly people need in any community, particularly as we view Title XX availability in the State of Colorado. I think it has been mentioned and I'm sure as you will hear further, the amount of money that has been available to the State of Colorado has been encumbered almost from the very onset, and as a result of that encumbrance, the priorities have been established pretty much historically in the areas in which there has been a lot of what I choose to call public pressure. Obviously in those pressures, the needs for children and families have seemed to take priority. However, in the State of Colorado, in my opinion, we have had perhaps a very healthy attitude as far as income maintenance is concerned with our old age pension, but we have not really talked a great deal about the social service needs, so there has been, in a sense, a recognition of needs of people in one area, but has not been given probably the same kind of attention in other areas.

I think, as Mr. Murphy and Mr. Doherty both mentioned, in Denver County we have had a deterioration of services to the elderly, and I give the example where we have tried to carry on by having a caseworker assigned to every person known to us in our caseload. Our effort there was to, at least, have someone available that people could call. In the last 18 months this has not been possible.

What has happened is the workload we have been given in terms of child abuse and neglect and the areas of familiies, this has taken almost all of our resources, and what we have basically said is that we will pay as much attention as we possibly can to the protection of the aged in terms of exploitation or abuse. We have tried to give emphasis to the nursing home placement in the hopes that we can at least give people a sense of choice in terms of the availability of beds, and that's about the extent of it. The rest of the staff we have had has pretty well been delegated to the protection of children. And that is, I think, a very honest assessment in terms of deterioration of the service.

Mr. Dorsey. This is a project designed to elicit information on all types of age discrimination, and although, clearly, as we have heard from the testimony here today, in addition to the information that we gain in the study, that the elderly are clearly quite disproportionately affected. However, there is some indication that among children even there are distinctions by age category. One that has been pointed out in other categories and also in this area as well is in the administration of what is referred to as the EPDST.

Chairman Flemming. I think we ought to rule out the initials and ask for a translation of the admission of each case.

Mr. Dorsey. Okay. I'm going to defer to Mr. Romero because I always get it tied up.

Mr. Romero. Early periodic diagnostic screening and treatment.

Mr. Dorsey. In any case, it tends to be concentrated in the ages of 1 to 10 and is, in fact, by program to be extended to age 21. In that kind of situation, is there some manner or effort to get that service extended to full potential? In other words, to include the entire area and is that concentration—do you consider that a form of discrimination by age category and within an age category?

Mr. Romero. I think again—well, my feeling is that if obviously there is a priority and to the end that those priorities tend to exclude, therefore I presume you could define it as discriminatory. If I might make a point. I read the material that went from San Francisco and to the extent that programs have these kind of exclusions, therefore, there is this kind of discriminatory effect, and I think that is probably very true.

Now, in the periodic diagnostic and screening program right now, our biggest problem is trying to just identify, by getting the children that are in need of some kind of care. That in itself is one of our most trying and difficult areas. Once we do that, the next step is to assure that something happens as a result. To extend that to age 21, at this particular moment, I feel is idealistic. I don't think we'll get there for some time. More importantly, with the limits on the availability of funds to take care of the needs of the people through Medicaid or Medicare or whatever, that puts a further dampening effect on the extent to which you can go to furthering these programs.

My observation is, a couple years ago, as I remember, we were really going all out to fund dental needs for children. All of a sudden we found that we had a lot more children than we thought, so we had to back off. So, yes, to the extent that we desire to expand programmatic coverage, I think we have pragmatic issues such as money availability.

Mr. Dorsey. Ms. Harris, in terms of your experience, not only in your present position but your long experience as a caseworker and supervisor, can you attempt to expound on what Mr. Romero has just indicated, in terms of indications of discrimination by age group and whether they are by circumstance or by design? Some of the various illustrations that you might find.

Ms. Harris. In a local county in social services, one surely becomes aware of discriminatory situations. In my own department, I think it's far more evident among the elderly, and I'm speaking, I guess, of age 50 and over as far as allocations of resources. Included in these resources, I'm thinking of staff allocations which is about a 1 to 8 ratio in my department, about 10 caseworkers are assigned to service a county of a quarter of a million people. Our statistics tell us that about a third of the population will qualify as age 50 and over. Part of it is by State regulation, by mandated program, that we have to give priority to. Some of it is by internal decision as to where local and community pressures are coming from. Our county has been recognized for some leadership in the protective service for children. To any degree that we have been successful in extending additional services to the elderly, the pressures have come from without our system, rather than within, meaning the State and local system.

We have some staff development issues to address in just trying to get staff interested in working with that population. That has always been the case; we are making gains there, too, of professionals, to see the aged and geriatric problems as a challenging and exciting place to be located. I think that there are some children's issues that you mentioned—the EPDST program—and the name in itself, I would like to say, is one of the problems. We can't understand the name, so how do we express that program to the community. But, yes, it is. I think those it intends to serve are discriminated against because we are not doing a good job of outreach, but also health problems occur in all age brackets, so, in that case, people over 21 are also being discriminated against. Conceptually, it's an exciting program. I think we have done a very poor job of addressing it and capitalizing on the potential of the program. Perhaps I should stop here.

Mr. Dorsey. I appreciate what you said. I'd like to direct a question now to Mr. Ashmore. I understand that this State has established priorities under Title XX, which is not unusual. As a matter of fact, it's consistent. Are explicit age categories taken into account in planning these priorities?

Mr. Ashmore. In terms of the priorities, we were basically locked in at the point in time when Title XX hit, after which the ceiling was laid upon and so we did and had made commitments to the population that we were serving at that time. Our cuts are in terms of, first of all, under Title XX we must spend 50 percent of the Federal money for assistance payments. We have included all of the State assistance payments only group in this, which is the income eligible group but also at a very low level, so we were not just serving Federal SSI and AFDC groups. As a matter of fact, a good half of the people we serve are not being funded under the basic assistance payments of that program. So that our cut is in terms of providing services to all federally-recognized and State-authorized assistance payment recipients. In terms of the aged group, this is about 30,000 citizens. In terms of who's receiving assistance out of that group, we serve about 15 to 20 percent of that group. It's a voluntary basis and probably there isn't as much outreach as there should be.

Health-related services are very high on the list, as well as individual-type counseling services which they often need, so that in terms of our total service program and which, I think, is not generally recognized at the county level, and I think there is, in Adams County, about a third of the persons we serve are aged and disabled persons.

One of the interesting things is that 10 percent of the services we provide are protective services to adults. What we are seeing is that not only are we having a major push in terms of protective services for children, our loads in terms of family services, but we are having a major push going on in terms of protective services in our adult caseload, so that when you get to discrimination, where are you discriminating? You cannot come up with an exact percentage, but we estimate that about 85 percent of the funds we get are earmarked through various pieces of legislation and various laws, which are, of course, very strong in Colorado for protective services for children. We have very weak laws in terms of protective services for adults; we rely on the probate codes, and we're pushing this. We have one piece of legislation which is really protective service legislation, and that is limited to 400 developmentally disabled persons, and that has been in a pilot status for over 4 years now. So that, again, you have—the law says you must provide these services to anyone who has a need for the service, on one hand, and you don't have the laws or the mandates or the support for administering services, so where are you going to go? I think much of what is happening in Colorado is by default in terms of how many dollars we have and how many laws are implemented and the priorities, and the children and the families are getting the high priorities in Colorado. But I think in spite of all this, there is a major effort in Colorado to provide service to adults in terms of the number of people served and it appears that we're still doing a fair job in this area, so that there is erosion. We have had counties who had full units of geriatric specialists on staff, and these have been essentially wiped out, and we have increased from about 5 percent when I came to Colorado in 1967, for adult services, and we now have about 30 percent of our total service package to this group. This is still reasonably well on a proportionate basis. When you get into the question of whether there's discrimination, I can't answer you because it appears, even with the pressures that are upon the States and counties, they are still making a major effort to get the services to fair portion of the population. Again, it's a voluntary thing. Then you get into how much outreach is being done to assure that there are services given, and, to the extent possible, I think the county is trying to deliver.

Mr. Dorsey. You mentioned in part of your presentation that there is a push toward provision of protective services for adults. Is there a procedure by which you can determine or is the information available to determine that in providing protective services to adults what that age category includes? For example, it could be consumed in such things as the category, for example, of family adults, namely, head of households from 22 to 44.

Mr. Ashmore. What I'm really thinking of are people who fall into the AND or OEP classification, either are on State programs or Federal programs under SSI. I'm not talking about family-type protective service, but individuals in those general categories, and again it's across the board at all ages, and often the aged need some kind of protection against exploitation, money management, housing, this sort of thing, arranging for a board and room situation versus staying in their own home, these kinds of services.

Mr. Dorsey. But when you talk about a push for adult protective services, much of that would be concentrated in age groups over 50?

Mr. Ashmore. I would think so, although we have people over 21 who are disabled who would be in that same situation, that would need this kind of service. We do provide services to 400 who have been especially identified and earmarked for that program. We have another 2,000 identified that we have no special funding for that are still getting services through the other aspects of our program, but those people again run all ages. They aren't just the young folks.

Mr. Dorsey. The reason that I'm following this line, one of the things that was raised before was that in terms of isolating disproportionate delivery of service by age group, the critical issue is information, obviously. One of these things I'm attempting to determine right now is whether or not within your program there is, in fact, an identification by age of the delivery of services.

Mr. Ashmore. It's identification by whether or not they meet the eligibility criteria—anybody within that age is eligible. If that doesn't occur, it's not because it's intended to be that way.

Mr. Dorsey. In an area such as delivery of services under the rubric "adult protective service," there would be no data held by the State which would indicate the age range of provision of service within that rubric?

Mr. Ashmore. I could probably get it. It's not a cut that I have right now, but something that could be obtained. I haven't asked for that kind of a breakdown. I do have some information I can get on that. One of the problems we have with the 50 or age 60, we look at the traditional assistance payment programs. We cut at age 65 and 50 to 65, and some mixes in here to pick how many are from 60 to 65. We're revising it so we can get that, but we can't now.

Mr. Dorsey. But you can get 50 to 65 and over, for example?

Mr. Ashmore. Yes.

Mr. Dorsey. I wonder if you could make that available to us, if you would. And I would ask at this point, Mr. Chairman, if we could reserve a spot in the record for us to enter that data which would indicate the age range.

Mr. Ashmore. Many of our folks, if you use that kind of a cut, the people we classify under the aid to the needy and disabled then would fall into the aged. If you would use that kind of a break, it would increase considerably the number that fall into that. Our focus in terms of eligible groups and, of course, the rationale behind that is we really don't feel we can adequately serve the clients we have been serving in the past, and I think it's really bad policy, to commit yourself to whatever services have a very wide range in the population, which Title XX certainly allows you to do.

It's a wild promise to the public, but you're not able to deliver in terms of dollars in Colorado as indicated by the previous panel. You know, we're in that kind of a box in Colorado, in terms of what we have been able to do, so we have tried to limit the groups that we portend to service to groups we can actually deliver services to. If we expanded our services to the aged in Colorado to OSDI recipients alone, in Colorado we would probably add upwards of 100,000 people that we just couldn't begin to deliver services to, and I think that is very bad to make a promise that we are going to—

Commissioner Freeman. Will you tell me how you limit them?

Mr. Ashmore. They are limited by being on assistance payments, either SSI or State assistance payment programs.

Commissioner Freeman. Have you ever tried to assess the number of those that would need the program?

Mr. Ashmore. Of the 100,000, say, that's rough, it would be in that neighborhood, we have about 10 percent of the population. We have 2.4 million, that would be 240,000—

Commissioner Freeman. Your office is aware there would be 200,000 that are in need?

Mr. Ashmore. Yes.

Commissioner Freeman. You do not have the resources to serve those needs?

Mr. Ashmore. That's right.

Commissioner Freeman. Have you ever made a request from any agency for the resources to serve those needs?

Mr. Ashmore. From what agency? Like homemakers' services?

Commissioner Freeman. Any agency from whom you get money.

Mr. Ashmore. Title XX?

Commissioner Freeman. Have you ever transmitted to HEW an assessment of needs with dollars amounts? We have heard a lot today about the fact that there's not enough money, that the children have to be pitted against the aged, and that is usually given as a reason for shifting priorities. What we need to know, as a matter of public policy, is whether the public officials who know they are not serving the needs, what they do to try to search, to get the resources that are necessary.

I'm not limiting my question to you. I'm limiting my question to everybody who has a public job to handle the budget, prepare the budget, and whose job it is to defend the budget, because when we go to Washington and we talk about Denver, they will probably tell us that Denver never asked for anything, Colorado never asked for anything. And, you see, we still have the elderly and the very, very young and the other people who have needs who are having a continuing need, and nobody's doing anything about it.

Mr. Ashmore. In terms of Colorado's social services program, our budget this year is pushing almost $60 million; 29.75 of that will come from Title XX. About $650,000, give or take, will come from 4-B, which would leave about a million and a half or so from 4-A for foster care and the rest of that. About 50 percent of the rest is from State and local dollars. There's no Federal dollars in there, and we do have much in there in terms of APWA and we have regular legislation going through on 7200 that is going through, 693 that is going through. We keep very much of this and as Charlene Berklund, who has been president of the APWA and is extremely active there—we are on top of what is going on in the legislature.

COMMISSIONER FREEMAN. Colorado is just an example of what is true of just about every other State. The problem that continues to trouble us is that all of this is less than the cost of one battle, and at what point do we try to at least ask for the resources to serve the needs of the people, at what point?

MR. ASHMORE. All the time, from where I stand.

COMMISSIONER FREEMAN. Do you have a budget request that is close to what the needs are?

MR. ASHMORE. I'm sure that—

COMMISSIONER FREEMAN. Your answer is no?

MR. ASHMORE. That's right and I don't know that we know. Every time we start a new program and you make an estimate about how many you're going to serve, there's 10 times more people that seem to come out of the woodwork. This happens time and time again when you find new dollars and start new programs. We did a survey on just homemakers' services for our own people, and we estimated that we needed at least 400 homemakers—we have 220. We serve about 3,000 aged and about a thousand families, but we know that is way under what we need. We actually have a waiting list for homemaker services.

COMMISSIONER FLEMMING. What percentage of the homes that are being served by homemaker services under Title XX are the homes of older persons?

MR. ASHMORE. About 3 to 1, the service provided for single adults and aged people; although we do have educational services and prevention and placement and foster care, but the large portion is for the adult. So, that is a major effort there.

MR. DORSEY. Mr. Myrick, I'd like to ask you a couple of questions. Within Title XX there are provisions to ensure that monies are used to meet community needs in all areas. These provisions include such things as needs assessments, State plans, public participation, and coordination with other human services providers. Not just in terms of Colorado but in terms of the entire region for which you have responsibility, are these requirements generally being met by Title XX recipients? We have already heard testimony that at least in Colorado we have had traditionally a ceiling, so that there is a question as to whether or not you could expand your services, even if you did a needs assessment. I don't know to what extent that had a chilling effect on actually complying with the requirements of the law, and I wonder if you could speak to that.

MR. MYRICK. Yes, and I think you have identified it and I'd like to preface my remarks. I would say that all of the six States of this region have complied with the requirements of Title XX, up to the extent of

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the development of the state of the art in those States. In other words, we are not really that sophisticated in terms of methods of needs assessments. There are numerous competitive kinds of ways to go about it, in terms of knocking on doors and holding public hearings, even before you get into the development of a plan and go through the process. Again, every State in the region does something that I would call acceptable under the state of the art—not what I would call desirable, ultimately, assuming, as the Chairman did, that Title XX lasts another few years. We are actually in the third planning year for some of our States' improvements over the years. But, again, you identified something else, and it takes a little historical perspective because even before you get the decategorized Title XX, when you have services to the aged under Title I and to the disabled under Title XIV, the cap $2.5 billion, the States—Colorado did estimate at that state of the art a need for $8 billion to fund the same social services they are funding now with $2.5. That was only through FY '76 or 5. I can't remember which one. But, that is what resulted in Congress imposing the $2.5 billion. I wouldn't attempt to defend the State estimate nor its validity, but I think it was some recognition of that. Dr. Freeman mentioned the needs are infinite, the resources are finite. So, this has—and I like the term—chilling effect. Why attempt to discover all of these things when you know what the limitations are? I think Dr. Freeman gave a very good argument for the, don't give up because all things being relative, those kinds of human needs ought to be competing for the resources of this Nation, and that is about all I can say.

Mr. Dorsey. In line with that, we have already heard the testimony that there are many competing interests, local and statewide, that force emphasis within the program on one specific category or another. One of the positive aspects of needs assessments, whether or not it shows an infinite need, is it's a separate force or political clout to be wielded to show an absolute need that may violate those previously established priorities and indicate that they ought to have a reallocation, and that's something, in fact, that's built into the law itself. Could you give us your opinion as to whether or not conducting a meaningful needs assessment might, in fact, take some of the political pressure off the State and local agencies responsible for Title XX and, in fact, allow them to reallocate resources so that delivery goes to where delivery is needed instead of to meet particular political exigencies?

Mr. Myrick. Again, being somewhat of an idealist, I would like to think that it carries more weight than what I think is with that pragmatic side of my mind as well as with my experience. I think it might well bring more balance into it. Mr. Ashmore would recall that shortly after the public law was signed enacting Title XX, we had a meeting of the States' social service directors, and I explained at that time as I saw the real opportunity in Title XX to be the ability as it recycles to address new needs and spin others off into other funding sources—particularly the more categorical ones, the Older Americans

Act that does address more specifically, but, again, with very limited resources, the Developmental Disabilities Act, which addresses another category of people, which has no funds. Title XX, in my opinion, is disproportionately paying for services to the developmentally disabled, given the total amount of resources available at this time. But, again, I think that the opportunity is still there and given additional resources and there are some moves, even those seem to be moving to categorize Title XX, like the $200 million for day care. That means, by State definition, it's only children. You can't put an adult or an aged person in a day care center. But, at least there's some possible expansion of the resources. I don't know if it would be enough to keep pace with inflation. The $2.5 billion of today is much less than the $2.5 billion in '72 when it was first proposed. Those kinds of things are what really leads me to the dilemma of how do you get balance, particularly when there are very effective lobbying groups at different levels. Do you point out the fact that because these are needs, as I heard in some of the other testimony, their needs are important needs? What I'm searching for is some balance in the use of whatever resources we have, even if it's $200 billion. I just don't think—my earlier reference to the state of the arts—I don't think we have the tools yet. If we had the kind of money that the Department of Defense has, then perhaps we could develop those tools.

Mr. Dorsey. Thank you, very much. I have no further questions.

Chairman Flemming. Let me start with the problem of utilizing our existing resources in the most equitable possible manner. We are focusing on Title XX, but we can focus on other programs.

It's clear that as you look at the field of aging and as you look at the way resources are used for the field of aging, that Congress has right and identified this as an issue, as the Age Discrimination Act. You take under Title XX, I'm not sure that you may be able to identify the source of these figures, but my recollection is that in '76 less than 10 percent of Title XX money, nationwide, was utilized for services for older people. There is a joint evaluation going on, on Title XX, on the Administration on Aging's involvement. I don't know if it came from there or some other source, but I was expressing the feeling that we are beginning to make progress and then I was hit with that figure.

Mr. Myrick. There are a number of things that are currently in process. You mentioned the evaluation. We have gotten published the first two quarterly social service reporting requirements, which gives us a little better fix, but still it's fuzzy. Then there's an analysis, and actually we're in the second go-around of that, because we just analyzed FY '77 proposed Title XX plans while the States are beginning to start planning the '78, I don't know when we'll get to that one. There was a publication called *Technical Notes on the Title XX Plans*, and I think that is where that figure comes from and it compares—and the only we have right now is FY '76, which compares with what the States planned to do in Title XX plan, and then what the expenditure reports showed what they really did, and that is what also gave me some hope. There was wide variation in '76. It looks like a closer approximation in '77 which tells me their planning process is improving, and maybe by '79 there will be a little more congruence. I would not argue with that figure. It think it's probably fairly accurate, based on previous experience and looking at Title VI, one of the predecessors.

CHAIRMAN FLEMMING. You take that figure and then take the figure of 4 percent of the total number of patients that are being served by the mental health clinics, 65 and over. The use of the general revenue sharing funds—the last figure I saw on that was about 3 percent of the funds were being used for services for older persons. You take your adult education funds and about 3 to 4 percent of the total number of persons being served under adult education are 65 and above. You keep going down the list and it's clear, for whatever reason, that our society has operated in such a way as to give older persons the short end. Now Congress says, as a matter of public policy, that we're going to try to get at that by prohibiting discrimination on the basis of age. When it comes to Title XX, if you assume that there's not going to be much change in the ceiling, then it seems to me that we are headed for a rather indepth kind of a process designed to establish what could be regarded as a reasonably equitable distribution of funds. Land knows, I don't know how you can work out a determination of that kind, but it does seem to mee that we're going to be forced into trying to think our way through this. Whether we can do this without kind of disrupting our society and establishing this adversary relationship is a real question, because, certainly as an older person, I know my generation doesn't want to be put in a position of trying to grab something and denying the right of children. That's the last thing we want to see happen.

You've been living with this. I'm just wondering if there has crept in, for historical reasons and so on, allocations, some obvious inequities, say on the plus side. I'm sure that there are some recipients that are clearly getting more than their fair share, but a reasonable person would agree to that. I would hope you would say yes, but I'm not sure you can say yes to that. But you have lived with it and seen the allocations change from year to year, and I just wonder if an impartial body of three persons were set up in a particular State to look at it, whether they could identify certain overallocations.

MR. MYRICK. I have no question that there are inequities. I'm not sure they are discriminatory in that sense. They are based on some pretty hard choices and decisions. But I'm also not sure that you measure equity simply by distribution of the dollar. It reminds me of one of the comments I made when I just kind of became frustrated and was talking to your staff. I recall one of the other Secretaries of HEW who also was frustrated, and he said that if we cash all this inkind service stuff out, we could give back almost $3,000 to every American and the marketplace would respond and take from them just like the supermarket does. I'm not sure. I think it gets back to the Assistant General Counsel's question of how valid a needs assessment is and then you develop equity around that. In other words, addressing those needs equally to the extent of whatever resources you have, and right now I'd say it's quite out of balance.

CHAIRMAN FLEMMING. How about the rest of you? Would you agree that it's quite out of balance?

MR. ROMERO. Agreed.

MS. HARRIS. Definitely.

CHAIRMAN FLEMMING. That could be our starting point, but where we go from there is going to be very, very important, and yet I sense in my conversations with people and Congress, when they were considering this and since then, that they really feel that they have hold of some inequitable situations. Undoubtedly, some of them have contributed to that inequity by passing through the House mandates on people to go in certain directions. It seems to me that those of us on the administrative side of it should try to come up with something that would at least approximate equity when it comes to the allocation of Title III. I assume, for example, you get a law like this in the book, that the Governors of the State are going to feel more and more pressured along this particular line in connection with their developing of their plan under Title XX.

MR. MYRICK. Could I add one thing, Mr. Chairman? There's one State in this region, and this is my own opinion and not as a representative of the department, but did the same kind of copout that we did. They divided the money up among the counties in this State just like the Government divided it among the States, by the headcount, irrespective of anything else. Everybody gets their fair share. Then it was left to each jurisdiction, and just like Pontius Pilate, the Governor washed his hands in terms of it. And they had to do with it whatever they could. That may be the ultimate goal of Title XX. In other words, the only way we may be able to do an adequate needs assessment is to get down to the smallest unit or not even that, the township to township, and let them plan and give them their share of the total. It's a problem that we have in some other kinds of things in trying to get a share to small jurisdictions, and they didn't even have enough to pay the postage.

CHAIRMAN FLEMMING. Of course, to some extent this is the philosophy underlying the Older Americans Act. The planning starts at the area level. It gets warped from time to time by Congress identifying some priorities they want to have the States and the areas recognize, and of course other things—but in effect, at least at the moment, they have a sum of money. As typically the States allocate that, they get an allocation from the Federal Government and they will allocate that to area agencies and they take that and decide what the priorities are in terms of services for older persons. Maybe you're right. Maybe that is following revenue sharing through to its logical conclusion, and so we then rely on the community to deal with it in an equitable manner. But I do have the feeling that those who are working with Title XX are probably going to be working with it for a few years, and going along with that, another major piece of legislation and it's going to run up against the act, and it's the Secretary who has to develop the regulations under the Age Discrimination Act, and he's got to work with Title XX, so he's going to have to try to develop some regulations that will bring the two together.

One thing that recurs that puzzles me, you all seem to agree on the fact that within the Title XX framework that, that the picture, as far as older persons are concerned, has deteriorated somewhat in the last year or two. I think you related it to the availability of caseworkers to work with older persons. What started that? What force was at work when you got down finally to the local level, which means that you're not rendering as much service as you were previously?

Ms. HARRIS. Perhaps I should clarify that. I intended to say that the pressure within the community, local decisions within the department, staff cuts, allocations of staff had not been directed toward problems of the aged, but in Adams County we have a very active citizens's advocate group on behalf of the problems of the aged. It's through the area aging and planning offices and we, through cooperation and coordination with those agencies, have delegated staff to do planning with them. So we think in Adams County we have a healthier or more active atmosphere on behalf. It's just internally that our staff is limited—larger caseloads, for example.

CHAIRMAN FLEMMING. I'd like to follow up on that. I assume this is true of both counties and reference was made to this by the other panel. The thing we have been interested in is trying to put pressure on to bring about joint planning, and this is why we worked on working agreements at the Federal level. This is why we worked this provision into the State plan as far as Title XX, III, and VII is concerned. But we have all recognized that those documents we signed in Washington are not very meaningful unless picked up at the State level, and some similar arrangements are worked out at the State level and finally down at the local level. I gather from what you're saying that it really has reached the county and community level and some constructive activity is under way?

Ms. HARRIS. Yes, and we see that as a really plus thing. I think it puts our department now in a position that we sometimes are accused of just giving lip service because we say yes, yes to a lot of plans it sounds good, and when the client comes in to our door, we don't have adequate staff. But we are excited about the coordination and cooperation aspects of it.

CHAIRMAN FLEMMING. Do you feel the same way?

MR. ROMERO. I think in Denver there has been much more—the coordination. I think both the two people in the previous panel mentioned that. I think that one of the major consternations of most local administrators is to try to make the resources you have go as far as possible and yet be sensitive enough in areas that are much more volitale than others. For example, the exploitation of older people in urban areas, where they are not in the best neighborhoods and related kinds of things, have isolated people and their service needs are tremendous, and when you have very limited resource of a staff available to do this, and you have to look for the volunteer and this kind of situation to try to solve problems, it get particularly difficult, and I think that is where we are at right now. The total planning effort and total interest is very common and there's common agreement. It's the resources we have to work with to develop this which are very, very scarce.

Chairman Flemming. Of course, you get that kind of system working and it does provide some checks and balances, some protection against discrimination, it seems to me.

Mr. Romero. Plus public support that you do not have otherwise.

Chairman Flemming. Counsel, do you have any more questions?

Ms. Bradley. Yes, I have one question. I'd just like to follow up on the Chairman's focus on program coordination. It's an issue that hasn't come up here and has come up in every other area we've visited. This has to do with implementation of the supplemental security income program and the effect that it did have or didn't have on older persons learning of or becoming familiar with and gaining access to the variety of services that they are eligible for. That is, because the income maintenance program became federalized, no longer under the structure of the State public welfare system, that older persons were constructively excluded because of the lack of a referral mechanism.

I'd like to start with Mr. Romero and Ms. Harris on this particular question. Has this kind of a problem cropped up in your particular areas in the administration of your programs, and have you worked up any kind of coordinative relationships with the Social Security district offices to overcome this sort of problem? Mr. Romero?

Mr. Romero. Funny you should ask that. I happen to be one of the senior planning officers for SSI, and I was the county welfare director in Denver before I went to SSI and then I came back. So it worked very nicely for us and it worked because I learned the system at both ends and having been with the State of Colorado for as long as I have been, I knew most of the county activities and most of the State procedures. So I don't think we in Colorado have the kind of difficulties that you had in many areas, and I guess I'm pleased to announce that we have good working relationships in most of the counties with most of the DOs and with all of the various reps that we have in terms of working out the types of communications, including—to the extent that we are pretty well current on the status of payments with SSI, tape exchanges, and these do farm out to the individual counties, so most counties are apprised of the benefits that are being received by the recipients. So, hopefully, I think we're making less errors. There are isolated instances, there's no doubt about that. But I think Colorado has been very fortunate.

Ms. **Harris**. I think perhaps Colorado did not experience some of the difficulties because there is a Colorado supplement even to the SSI payments, so people still have contact with the system, and therefore there is an appropriate avenue for outreach or informing clients of social services and related services. That has been a plus. I think Adams County maybe is a little different from Denver and may be more like some of the outlying counties in that we have a large rural population. We do not have a SSI office located in the county, so transporation difficulties that would not be as outstanding in Denver, for example, exist. How to get downtown or for a person who's older but still drives, just driving downtown, those problems have to be worked out, often without the assistance of the department of social services. One, because no funds are available to subsidize a trip downtown to the office, but also because we never came in contact even if we would be inclined to give local funds to assist in that service. So I don't think we, as are many other rural counties, are as fortunate in that and Adams County is different in that it has some urban features—that part that is adjacent to Denver—but 40 miles east on the plains without transportation would be quite a bit different.

Ms. **Bradley**. Mr. Ashmore, the situation there, is that fairly typical of other areas of the State?

Mr. **Ashmore**. I frankly don't think I have had any complaints from the SSI offices or county offices. The only one I can think of was one on the northwest corner in the past year. So, frankly, I haven't had much experience around this area, and I think in this sort of thing no news is often good news, from where I stand, in terms of what's going on out there in terms of coordination, and I think the 10 large counties have developed some reasonably good communication systems with the local SSI office. Sometimes it's been a struggle to get this work done.

Ms. **Bradley**. Mr. Myrick, in terms of the other States in this region, since this doesn't appear to be an issue in Colorado, have you run into this kind of situation in the other States?

Mr. **Myrick**. Well, a lot of the other States are, of course, more rural than Colorado. Utah is the only other place we consider urban and that is only Wasatch Front. The problems, I would say because of the kind of staffing that went into the initial thing, Mr. Romero and his broad experience made our Social Security Regional Office more aware than I think happens in some other cases. We actually tried some experiments, but there wasn't enough volume business, for instance in North Dakota, of outstations, county social services staff in the DOS. I would welcome a DO to my office because I was in a rural area and that kind of exchange was worked out. There's not too many of those continuing now because the communications have gotten better. People are aware. That still doesn't overcome the transportation problems and everything else, but at least the agencies know what's available in one another. We shared with the Social Security Administration Regional Office, when we were still SRS, the summaries of all the State Title XX plans for each State. And, of course, the State and local counties welfare departments knew what was available from SSA. So, there was a good exchange of information.

Ms. Bradley. Let me pursue that point in terms of the Federal regional office taking some action here. At the outset of the implementation of SSI, then, the two regional offices—SSA and SRS—came together and oversaw the situation. What can we do to be sure this problem might not crop up again?

Mr. Myrick. That is right, under the man's leadership. He made reference to pieces of paper to be signed. There were agreements both at the two agencies, both at the central office and the regional office level. We felt it was more than just a piece of paper and did pursue it in that way in terms of how to operate. It wasn't Title XX at that time. It was Title VI and we were working with the State at that time to find out what they were putting in the Title VI plan.

Ms. Bradley. Thank you very much.

Chairman Flemming. Commissioner Freeman?

Commissioner Freeman. Nothing.

Chairman Flemming. Pursing that line of questioning, the most practical recommendation that we could make, designed to produce more equity into the picture, would be to recommend to the Congress a raise to the ceiling on Title XX. I don't know by how much in order to get equity, but this is clearly one of the tough problems right now, the existence of that ceiling.

We appreciate your spending this much time in sharing with us the experiences you have had, the insights you have, and it's going to be helpful to us as we pursue some of this line of questioning in Washington and as we work on the report on findings and recommendations. Thank you very much.

We'll recess until 7 o'clock.

Evening Session, July 28, 1977

TESTIMONY OF BERNARD J. FRANTA, DIRECTOR, FOOD STAMP PROGRAM, FOOD AND NUTRITION SERVICE, U.S. DEPARTMENT OF AGRICULTURE, DENVER; RONALD MIKESELL, DIRECTOR OF FOOD ASSISTANCE, COLORADO DEPARTMENT OF SOCIAL SERVICES; WARREN WOODMANSEE, DIRECTOR, INCOME MAINTENANCE, DENVER DEPARTMENT OF SOCIAL SERVICES

CHAIRMAN FLEMMING. The hearing will come to order and will Counsel please call the next panel.

[Bernard J. Franta, Ronald Mikesell, and Warren Woodmansee were sworn.]

MS. GEREBENICS. Beginning with you, Mr. Franta, will you give us your name for the record and your title?

MR. FRANTA. Bernard J. Franta. I am the regional food stamp director.

MR. MIKESELL. I am Ronald S. Mikesell. I am the director of the food assistance for the Colorado Department of Social Services.

MR. WOODMANSEE. Warren W. Woodmansee. I am the director of income maintenance of the Denver Department of Social Services.

MS. GEREBENICS. Beginning with you, Mr. Mikesell, could you give me a statement of how many people in Colorado are eligible for food stamps but not participating in any program?

MR. MIKESELL. If I remember the figures correctly, the estimated eligibility is somewhere in the neighborhood of 465,000 individuals. About 45 percent of those are currently participating.

MS. GEREBENICS. Is there any relation with age, older persons, and to—

MR. MIKESELL. Well we have fewer, I believe, of the older persons in that category participating than any of the other groups.

MS. GEREBENICS. And do you have any theory as to why the people are not participating?

Mr. Mikesell. Yes, I think there are probably several reasons. The elderly have a tendency to view the food stamp program as being a welfare program since it is administered by the county department of social services. So they have a matter of pride which prevents them from participating. The other thing that creates a problem is that we have many of the elderly in rural areas of the State who do not have access to the program because of the long distance that they have to travel and the problems of lack of transportation.

Ms. Gerebenics. Thank you. Mr. Woodmansee—let me go to Mr. Mikesell for a moment before we go any further. Could you define the responsibility of both the State and county in implementing the outreach mandate of the food stamp program?

Mr. Mikesell. Yes, the responsibility for accomplishing the outreach is given to the State department of social services under the Food Stamp Act and by the administrative regulations of the Department of Agriculture. In Colorado the program is State supervised and county administered, and therefore this responsibility is then passed on for the fulfilling of that responsibility under our supervisors at the State level.

Ms. Gerebenics. Mr. Franta, what obstacles have you encountered in the outreaching programs, getting them going?

Mr. Franta. In Colorado not really any major problems. Some of the States that we have jurisdiction over, which are 10 States in our region, there has been inactivity in some States.

Ms. Gerebenics. Does your office do the monitoring?

Mr. Franta. We do the monitoring and the enforcement.

Ms. Gerebenics. What steps do you take in enforcement to ensure—

Mr. Franta. We withhold reimbursement funds, which we have done in several instances.

Ms. Gerebenics. And how does that work?

Mr. Franta. The State is reimbursed on a 50 percent reimbursement factor by the U.S. Department of Agriculture, and we give them a letter of credit and they withdraw their funding as they go on. We put a stay on their letter of credit, withholding funds.

Ms. Gerebenics. Mr. Woodmansee, is the outreach mandate an effective way of ensuring participation?

Mr. Woodmansee. The outreach has certainly been an important factor in getting more people to apply and obtain food stamps, at least in Denver County. We have a reasonably comprehensive outreach program for Denver, Colorado, and we go, for example, to senior citizen high rise apartments, we go to public housing projects, we go to various places in all 27 places throughout the City and County of Denver. And we have four full-time, full-service food stamp offices, and we also have a mobile van where we sell food stamps out of, and this we do every month, and we have done it and found it to be quite effective as an outreach program. We still have some to go, but we certainly have found an open market, so to speak.

Ms. Gerebenics. Do you know how many people in Denver you are serving of those who are eligible?

Mr. Woodmansee. In food stamps, Denver County, the average last year was 19,244 persons or households certified. In June it was 19,218, so it remains very, very average. I would suggest there are probably 40,000 recipients in Denver County eligible for food stamps.

Ms. Gerebenics. Are there any aspects of the food stamp program other than outreach that may or may not be getting to the older person, that segment of the population, that are discriminatory to any other groups in either policy or practices, Mr. Mikesell?

Mr. Mikesell. We have a little bit of a problem with attitude in some of our conservative rural counties in the State of Colorado toward the younger population groups, especially those that are somewhat transient. In these mountain communities of Colorado, we have a high population of transients during the summer months, and we find real difficult problems of attitude toward those groups, and I feel that possibly some of those might be being discriminated against in the administration of the food stamp program.

Ms. Gerebenics. How about you, Mr. Franta, have you isolated any other incidents?

Mr. Franta. Not per se. I would have to say that there is some discrimination in reverse, to where a two-person household of 60 years or older are entitled to $3,000 resource limitation and a two-person household of under 60 would only be allowed a $1,500 resource. I can't think of any other major discrimination.

Ms. Gerebenics. Do you think the Age Discrimination Act set out now will have any effect on the food stamp program, or as it is being implemented in your region or the State?

Mr. Franta. I don't believe it really would because our—there is built in, so to speak, discrimination factors in our law to the food stamp act, but other than that, I can't see where it would make any changes.

Ms. Gerebenics. Would you consider those built-in discriminatory practices—would any of those come under the purview of reasonable or—

Mr. Franta. Yes, I think they are. The one that I just indicated—a person that is over 60, two people, would be allowed $3,000 I think that is reasonable. We have got communal dining for the people over 60 as well, which no other group of people are eligible to participate in. Institutions, I believe it is—if it is an elderly housing project they are allowed to participate in the food stamp program, paid for their meals with food stamps.

Ms. Gerebenics. Mr. Woodmansee, have you noticed any particular problems with access—I know in some food stamp programs there is a problems of going one place to be certified and another place to buy the stamps and a third place to buy the food?

Mr. Woodmansee. We don't have that problem in Denver County. As I tried to mention earlier, we have four full service offices where they can be certified and buy their stamps right there. We also bring the stamps to the senior citizen high rises. We go into housing projects with the stamps and sell them, and I don't see that a real problem. We have attuned our public assistance recipient certifications to coincide with the certification, and I don't see that as a problem in Denver, Colorado, but you also have to realize that Denver County being a metropolitan area also has problems with it built-in things that smaller communities don't have. For example, public transportation. It is easier to get around in Denver than to drive 30 or 40 miles to get certified for food stamps and pick up your stamps.

Ms. Gerebenics. Mr. Mikesell, do you think that the Age Discrimination Act if going to have any effect or impact on the way your program you—in the way you administer your program?

Mr. Mikesell. No, I don't think it will have a great deal of impact on it. I think the discriminatory thing, if you want to call them discriminatory, are probably only discriminatory because of the way in which the program is administered. I don't think it would be administratively feasible to require the same amount of access for the elderly, say, that they should have because of their particular status that it would for somebody who has mobility and transportation and can get to those places.

Ms. Gerebenics. Do you agree with Mr. Franta that the differences within the act are reasonable?

Mr. Mikesell. I do.

Ms. Gerebenics. I have no further questions, Mr. Chairman.

Chairman Flemming. In connection with the outreach program, have you had any situations called to your attention where the program has reached older persons who, up to that particular point, have been isolated from the community?

Mr. Mikesell. If I may answer that, Mr. Chairman. We have been fortunate in Colorado to have some funding from the Community Services Agency which has allowed us to hire some part-time staff who can go out and reach the elderly and the disabled, to find those who need the benefits of the program, and while they are there accomplish the certification so that they are able to be certified without having to come into the certification office. As a result of that we feel that this outreach has been especially beneficial to the elderly. We have brought people into the program that we know would not have been there other than that and have helped them have a more adequate diet because of it.

Chairman Flemming. Did any of you participate in the, what I might call the informal outreach program about the time of the second White House Conference on Aging in 1971?

Mr. Mikesell. Yes, I did.

Mr. Woodmansee. Yes.

Mr. Franta. Yes.

Chairman Flemming. I gather this is a more refined approach but with the same basic objective in mind?

Mr. Mikesell. That's correct.

Chairman Flemming. What are you provided in the way of resources to conduct the outreach program?

Mr. Mikesell. In the State of Colorado we have provided some assistance through area outreach coordinators where they work directly with the County Department of Social Services. We also provide them with some clerical assistance in reaching low-income agencies and organizations that deal with the low-income elderly and other groups. We have worked with them in trying to provide training on the food stamp program to where they can do the outreach when they reach the groups that need to be encouraged to participate.

Chairman Flemming. How are those activities funded?

Mr. Mikesell. We have some funds through State agency appropriations, but this has been extremely limited and, as I mentioned, we have been fortunate to get a grant of $124,000 from the Community Service Agency, and, of course, this has been matched 50–50 by the U.S. Department of Agriculture on the administrative expenses that they provide for us.

Chairman Flemming. Was the Department—or did the Congress appropriate any specific funds for outreach programs?

Mr. Franta. It is a 50–50 matching on the State. The State spends X dollars and we match that.

Chairman Flemming. So, in effect, you have a line item appropriation that you can use in that particular way. Do you have any feel at all as to the amount of money that is or has been invested in the outreach program?

Mr. Franta. I wouldn't be able to say.

Chairman Flemming. We can get that. I would like to ask the staff to try to obtain that figure on the national basis. I feel that what's happening in connection with the food stamp program is what needs to happen in connection with quite a number of other programs. We have had a good deal of testimony relative to the fact that older persons do not, are not involved, for example, in community mental health clinics to the extent that they might be, and it is clear there is no outreach program as far as most of the community mental health clinics are concerned. I gather that all three of you feel that this outreach program is really working, getting positive results out of it, correct?

Mr. Mikesell. I would like to qualify that to a certain degree. We do have a little bit of negative opinion about outreach in some of our rural conservative counties. We have had the difficulty of identifying through the numbers of people who have incomes below 125 percent of the poverty level and this sort of thing, and as a matter of pride, some of the local county authorities think that we are trying to identify them as being low-income and they resent that. They feel that the food stamp program has been very well publicized, that everyone knows about it, but yet we know for a fact that the things that they do know are not the things that are going to help them to participate, but conversely would be things that would prevent them from participating. I think we need to overcome that with positive outreach.

Chairman Flemming. What impact do you think the new law, which apparently we are about to have—a new law doing away with the necessity of their making a cash payment, will have on the outreach program?

Mr. Franta. I will address that, sir. And I believe it will have a considerable increase in the participation, because the margin of bonus, so to speak, it has not been to where people could participate and it costs them more, but at this stage of the game they will not have to invest money but will be able to obtain their bonus stamps, so to speak, on a free basis and therefore they won't be short of cash at the end of the month, which has been a common complaint so to speak from some of the agencies.

Chairman Flemming. Do you feel that it will bring into the program an increased number of low-income persons?

Mr. Franta. It will eliminate the ones that have stayed out because of the cost.

Mr. Woodmansee. In Denver County we have approximately half of the people who are eligible for public assistance participating in the food stamp program, and that's primarily because of the cost of that. In many cases it is the elderly because they get a very small bonus of $42 for $52 worth of stamps, $10, and I would suggest to you that the increase will be rather dramatic. The conditions will be such that they will be able to get stamps with no purchase price and it will be rather dramatic. The cost to the program will increase, and I think we have to look at that from a very, very realistic viewpoint, because if the intent of the regulation is to decrease the food stamp program cost, it is not going to do it.

Mr. Mikesell. One comment that I might make and that is—by eliminating the purchase requirement we are going to be helping the elderly especially. There is another aspect of the new law that I believe will help the elderly, also, and that is the standardized deduction concept, because many of the elderly having already paid for their homes, have less housing costs. They don't have some of the other high deductions. Many of them are on public assistance programs where Medicaid and Medicare picks up their medical costs. So they are going to be helped, if they are below that eligibility income limit, to get more of a bonus than what they are getting now.

Commissioner Freeman. I would like to pursue that. You made some statement with respect to the negative attitude of persons in the rural area who, because of their conservatism, reject this. What percentage of those who need the stamps would constitute this group?

Mr. Mikesell. Relatively a small percentage. In the State of Colorado the front range of the Rocky Mountains is about 85 to 90 percent of our total caseload, and it is in the rural areas outside of that front range group where the most conservatism exists. So I would say that probably represents less than 15 to 20 percent of our total caseload.

Commissioner Freeman. Does this conservatism, would this be a group that would be conservative as to all aspects of life, or are these people who have some attitude about the people who receive welfare.

Mr. Mikesell. Well, I think it is a combination of both. I think they are basically conservative about all attitudes or all aspects of life, but they also have some problem about those who receive welfare.

Commissioner Freeman. This raises another point and that is the need for public education to at least cut across the myth that the great majority of people on welfare are there because they are lazy, and I wonder to what extent the agency recognizes the need to engage in some public education programs?

Mr. Mikesell. I believe that the State agency recognizes the need. However, in the way in which welfare is administered in Colorado at the local county level, they are working for and under the direction of the local county commissioners, so I believe that it might be difficult to expect they would do the education to destroy their own attitudes.

Commissioner Freeman. Are these people themselves individuals who have the same attitude that the rest of the population has?

Mr. Mikesell. Basically, yes.

Commissioner Freeman. So they are the problem?

Mr. Mikesell. That's correct.

Commissioner Freeman. You would then probably have to get rid of them before you would get rid of the problem. I mean, just asking, we have encountered this throughout the day with respect to certain attitudes of persons who are administering public programs. Well, then, if they are the problem then would the agencies for whom they work consider the need to have some orientation for them as a condition for continued employment?

Mr. Mikesell. Well that's a good suggestion. I think it is very appropriate, but I think if you expect the people that have the problem to carry it out, that's where you are going to run into the difficulty.

Commissioner Freeman. Unfortunately, that has been a way of life in that the people who have the problem have been administering the funds, and I am speaking of that particularly with respect to the poor and minorities, and they have had to receive funds from administrators who are bigoted and prejudiced and that sort of thing, and I am trying to get where we begin to solve it.

Mr. Mikesell. An example of one way in which the problem was somewhat solved was in the recession of 1975. The negative aspects of the food stamp program were well known throughout the country, but yet when some of the individuals who had been most negative felt that need themselves during that recession it was an education that stuck with them.

Commissioner Freeman. We could sort of shift shoes?

Mr. Mikesell. We could let them wear the poor peoples' shoes. That would solve the problem.

Commissioner Freeman. Maybe we will try to recommend something like that.

Chairman Flemming. If I could go back for a moment, you indicated that in some instances you have staff that did go out and actually locate some of the isolated older persons. When they do that, I'm sure they run up against quite a number of other problems that those older people have. Have they been trained to cut other agencies into the picture, refer older persons to other agencies, and so on?

Mr. Mikesell. Yes, sir. They have been advised of what the other resources are and have been given information as to referrals that can be made to take care of other needs.

Mr. Woodmansee. In Denver, Colorado, we have a program, Denver Opportunity, funded through Manpower, and they have action centers located throughout the city, and these we use as our resource person to go out and knock on doors. I mean knock on doors. They do that, and we train those people both in food stamps and recognition and need for abused and battered children, medical care needs, and so on. And those people are trained by the department of social services in Denver County.

Chairman Flemming. In other words, if they ran up against a person who was not drawing social security benefits and didn't know much about it, they would try to build a bridge there between that person and the social security?

Mr. Woodmansee. They have much more expertise, yes, they do. I would want to take one exception to what Mr. Mikesell said. I don't think all counties are as prejudiced. We have here in Denver County, we have a group of administrators who have grown up from public assistance, and they have been on public assistance themselves at one time or another and our ratio of minorities is extremely high, 36 or 37 percent minority including 62 percent women, if that is to be considered a minority. I think that maybe an urban area doesn't have quite that stigma to overcome, but I know personally I came from a small rural Colorado town and, boy, that's there, that prejudice is there.

Mr. Mikesell. I didn't mean to infer that all counties in Colorado have that problem, because the urban counties have it far less than the rural counties do.

Chairman Flemming. Any further questions? We appreciate your willingness to spend an evening here out of your life in order to share the experiences with us, and I am particularly encouraged by the outreach program.

Mr. Woodmansee. I am sorry to keep putting in one comment after the other. In 4–A, which is the income maintenance section or the public assistance section, I would like to point out a reverse discrimination and I would point to the fact that in Colorado old age pensioners A and B receive $215 each per month—a couple is eligible for $430. Under the AFDC standards, one adult and six children are eligible for $436 in public assistance money, and I would submit to you that that is discrimination in reverse.

Commissioner Freeman. It is discrimination—not in reverse, plain old discrimination.

Chairman Flemming. I appreciate your comments. Anything else? Again, thanks a lot.

Ms. Gerebenics. If any of you have documents which you wish submitted into the record at this point, if you will give them to our clerk to your left we would appreciate it.

Chairman Flemming. Call the next panel.

TESTIMONY OF DR. RAYMOND BEST, REGIONAL PROGRAM REPRESENTATIVE, OFFICE OF REHABILITATION SERVICES, OFFICE OF HUMAN DEVELOPMENT, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, DENVER; GLENN CRAWFORD, DIRECTOR OF REHABILITATION, STATE OF COLORADO; ROBERT DARNELL, SUPERVISOR OF REHABILITATION COUNSELORS, DENVER CENTRAL DISTRICT OFFICE OF REHABILITATION SERVICES, COLORADO DEPARTMENT OF SOCIAL SERVICES

[Dr. Raymond Best, Glenn Crawford, and Robert Darnell were sworn.]

Ms. Gerebenics. Beginning with you, Mr. Crawford, would you state your full name and title of your position for the record?

Mr. Crawford. Alvis Glenn Crawford. Director of Rehabilitation, State of Colorado.

Dr. Best. Raymond Howard Best. Program specialist with the Office of Rehabilitation, Region VII.

Mr. Darnell. Robert Merle Darnell. Supervisor of rehabilitation office, Denver Central.

Ms. Gerebenics. Thank you. Beginning with you, Mr. Crawford, do you believe that there is age discrimination in the rehabilitation program, as it's administered?

Mr. Crawford. No, I do not.

Ms. Gerebenics. And is there any reason that you say that?

Mr. Crawford. Age is not a criterion for eligibility for rehabilitation services.

Ms. Gerebenics. Who makes a decision about whether or not a person is eligible for these services?

Mr. Crawford. A decision is made by a vocational rehabilitation counselor in our district offices.

Ms. Gerebenics. Are they provided with guidelines or policies on which to base ther decision?

Mr. Crawford. Yes, they are.

Ms. Gerebenics. And from where do those come?

Mr. Crawford. From the State office.

Ms. Gerebenics. Do you think there is any sort of bias on the part of the counselors in making a determination about who's going to be rehabilitated, say, for example, who is the most employable person?

Mr. Crawford. That would be a subjective statement. I would hope that such bias does not exist. We do conduct inservice training programs and, hopefully, these inservice training programs are effective. It has no place in vocational rehabilitation.

Ms. Gerebenics. Does the existence of a mandatory retirement age have an effect on whether persons will receive vocational rehabilitation?

Mr. Crawford. It doesn't determine whether or not they receive it. It does affect the kind of employment we can get for our clients.

Ms. Gerebenics. And what sort of employment can you get for someone beyond the mandatory retirement age?

Mr. Crawford. It varies a great deal. Most of our placements are in industry. There are some industries that do not have mandatory retirement ages, although most of them have either a written or unwritten age. But our position is that if an individual is qualified to work in a certain area, then it's my feeling that it's our job to try to find that work that they are qualified to do.

Ms. Gerebenics. There's one provision in the vocational rehabilitation where a person can be rehabilitated into—I believe it's a homemaker status?

Mr. Crawford. Yes, that's true.

Ms. Gerebenics. Is that commonly used here in Colorado?

Mr. Crawford. I don't know what you mean by common. I don't think it's overused, if that's what you mean. It's not underused.

Chairman Flemming. I didn't hear your answer. Is it used?

Mr. Crawford. It is used.

Chairman Flemming. To a considerable degree?

Mr. Crawford. I don't know what you mean "to a considerable degree." I don't think it's an overused vocational objective, if that's what you mean.

Chairman Flemming. I wouldn't characterize it as overused. You have a figure in mind as to the number of persons who have been rehabilitated under that category?

Mr. Crawford. This last year we had less than 15 percent of the total rehabilitants fall into that category.

Chairman Flemming. What was your total?

Mr. Crawford. 1,975—1,975 last year. This year we would project, based upon the first three quarters of the year, that we would have a little over 2,500 rehabilitants. The homemakers would be up slightly over the year before.

Chairman Flemming. Somewhat over 300?

Mr. Crawford. Right.

Ms. Gerebenics. What is the age range of the persons who are being rehabilitated to homemaker status?

Mr. Crawford. That I cannot tell you.

Ms. Gerebenics. Mr. Darnell, do you believe that age is a factor in whether a person is receiving vocational rehabilitation services?

Mr. Darnell. No, I do not.

Ms. Gerebenics. And why is that, in spite of the fact of the focus on employability?

Mr. Darnell. We look at the employability and not at the age when the person receives services or applies for the program. It's not a variable of consideration.

Ms. Gerebenics. You say you look at employability and not age, but how does that interact with the private labor market, which frequently has much more severe age restrictions on certain jobs?

Mr. Darnell. In dealing with an individual that applies for rehabilitation services, we do not try to outguess or presuppose the employment procedures of a given employer. But rather, we work with the individual toward an employable state and once having arrived at an employable state, try to seek out or find an employer that is willing to work with the individual for employment, rather than to conjecture what age would be applicable and what would not.

Ms. Gerebenics. Have you found there is any specific point at which age is a factor?

Mr. Darnell. I certainly couldn't give you a specific age.

Ms. Gerebenics. Mr. Best, we found that the vocational rehabilitation program gauged its effectiveness on the number of cases rehabilitated or the number of closures as a method for evaluating a program. Do you think that this practice of putting so much emphasis on closures has any kind of age discriminatory impact?

Dr. Best. This is a personal opinion, but I think it does. I don't think it's an overt sort of action, but I think the pressures are there. I think from every level, that you must show so much progress in your program. Probably the major means of measuring the success of the program, the accountability of the program, at this point, is the successful number of rehabilitations.

Ms. Gerebenics. When you're speaking of the program, you're speaking of the State program or the local program?

Dr. Best. The State. This is, of course, a cooperative program between the State and the Federal Government.

Commissioner Freeman. May I interrupt? I want to get some clarification with respect to these programs. Do you have records with regard to age, sex, and race of the persons in the program?

Dr. Best. Yes.

Commissioner Freeman. And, have you submitted those records to the staff?

Dr. Best. No, those have not been submitted at the present time. They are available in varying kinds of statistics that are brought out by RSA in Washington. The normal breakdown as far as sex, race, and age.

Commissioner Freeman. And the training for which you have the questions to which you're responding, this is for homemaker or otherwise?

Dr. Best. I think that would be available also. That would be available on a State-by-State, region-by-region, as well as national figures.

Commissioner Freeman. Together with what the criteria is for eligibility for the program in the first place?

Dr. Best. Yes.

Commissioner Freeman. Mr. Chairman, I think it would be helpful in connection with this testimony to request that it be submitted and inserted into the record.

Chairman Flemming. I think we might request that of the Washington office.

Ms. Bradley. W[illegible] have the '74, '75, '76 data files for the—

Commissioner Fr[illegible]. For the areas—

Ms. Bradley. For the precise areas you have outlined and all elements required by the reporting requirements from the Rehabilitation Services Administration. So we do have that information.

Commissioner Freeman. So that the response that Mr. Crawford gave as to whether or not there is or is not bias would be reflected in the records?

Ms. Bradley. It will be reflected in the data and we are using that very actively in our study, yes.

Ms. Gerebenics. Dr. Best, the vocational rehabilitation program already has a provision outlawing discrimination on the basis of age relating to eligibility? How is this implemented and has it been successfully enforced?

Dr. Best. Of course each State to receive its Federal funding must submit a State plan and that State plan goes along or agrees with that particular regulation, among o[illegible] that there is no upper or lower age limits of those that are se[illegible]he State plan also calls for a number of things, such as the u[illegible]n of similar benefits and so forth, that primarily with the younger age group take care of a great many of the needs of the younger people. I'm not sure how it would be enforced. I would think that this comes primarily from grievances that may or may not be filed against the State or brought to the attention of the regional office. I have not been with the regional office that long—about a year and a half. I do not recall any grievances coming to the attention of the regional office in this Region because of age discrimination. We would certainly be interested if this sort of thing were occurring.

Ms. Gerebenics. Mr. Darnell, is there a successful outreach program in vocational rehabilitation or any kind of outreach program at all?

Mr. Darnell. Well, outreach—I'm not sure. We do not have a specific number of employees or a number of employees that are specifically assigned to outreach. Each counselor is responsible for seeking out individuals that are in need of rehabilitation and from all agencies as well.

Ms. **Gerebenics**. Do most of these come on referral to you, then?

Mr. **Darnell**. Right.

Ms. **Gerebenics**. Mr. Crawford, we found in other places that older persons are not applying, just are not being referred by any agencies. Is that true?

Mr. **Crawford**. I read some of the material you had from some of the other hearings. Based on the material, your findings are correct. Whether or not the persons are being referred here, as you have found for other areas, I couldn't tell you at this time. I would note that our average age would be similar to what you have found for other places, based upon your materials, so they may not be referred.

Ms. **Gerebenics**. How do you go about getting your clients here, then, primarily?

Mr. **Crawford**. The referrals?

Ms. **Gerebenics**. Generally, how do they come to you? Do people apply?

Mr. **Crawford**. They are normally referred by persons in the community. Most of them come from physicians, the great majority from this source. The next greatest majority from other programs such as social security, State aid programs, things of this sort. We do work with the school districts. We work with local community resources, letting them know that we are available to provide vocational rehabilitation services. This is done through our several district offices scattered over the State.

Ms. **Gerebenics**. Dr. Best, under the Social Security Act, social security funds available for rehabilitation are supposed to be awarded when they result in a savings on the social security trust fund. I wonder what effect this decision has on counseling when they're dealing with a middle-aged or older person on social security benefits?

Dr. **Best**. I knew that was coming. It has a very definite effect, I think. As mandated by Congress, the expenditure of the trust fund must result in a savings to the trust fund, and in evaluating the potential of the client's employability, the age is very definitely a factor in the criteria for the use of that particular fund. Before the client really reaches that point in which he is evaluated for use in that special fund, he is evaluated against the general criteria of the program, his handicap, his feasibility in terms of employability, and so forth. If it's felt that the provisions of the services utilizing the trust fund will not result in a savings, then he can expect to be served from the general fund rather than the social security fund. So, I guess there's a fine line there. It's discrimination, but it's not a denial of services. It's more of which pot are we going to spend it from?

Ms. **Gerebenics**. Mr. Darnell, you were going to say something?

Mr. Darnell. I think that built into the job description or job duties of the rehabilitation counselor is the specific responsibility of developing referral sources in order to lend outreach to the program. So, it's very specifically stated that outreach services are part of the job functions.

Ms. Gerebenics. Rather than a formal outreach program, it's up to an individual counselor. Is there any monitoring of the counselors or does it become evident through the number of cases they handle?

Mr. Darnell. The only point of monitoring I can relate to is that we are responsible for covering all agencies and having representation or correspondence with agencies and private resources.

Dr. Best. If I could jump in here, I think that each person who goes on rehabilitation roles is identified also by a referral source. Sometimes they are rather general, by they show whether referral is from social security, a physician, hospital, or community workshop and so forth. So you can keep tabs on that.

Ms. Gerebenics. I have no further questions at this time, Mr. Chairman.

Chairman Flemming. I appreciate the fact that you are the administration operating under a pretty tightly drawn law and the policies flow from that. As one who at one point defended the budget for the administration, I understand what you're saying when you indicate that a great deal of emphasis is placed on the end result, how many get placed, and I think the decision some years ago to use that as a measuring device was a good decision.

Now, the administration has gone through a period where people in Congress and out of Congress have said, "Well, what the administration has done is picked off the ones that they are very sure will result in the person being reemployed and have tended to move away from the more difficult cases, so that has led to two categories." Now, is that right? I forgot what you call this category of the difficult ones.

Dr. Best. Severely disabled.

Chairman Flemming. You operate, or the administration operates, under some guidelines that put a good deal of emphasis on placing as many of the severely disabled as possible, and I'm sure that shift in policy has resulted in more severely disabled being accepted into the program and being taken through the program with a result of their being employed, and that's all to the good. But, I'm interested in your response to the question as to whether or not you detect anything in your present eligibility requirements that make it a little tougher for older persons to be accepted?

I mean, the pressure is on to get as many people placed as you can get placed, and the person who is making the decisions dealing with an older person up around 65 or 70, something of that kind, and I assume that at times that runs through his mind, the fact that, well, if we succeed in rehabilitating him, we may not succeed in placement. I appreciate the fact that you're operating under no discrimination provision as far as age is concerned and I'm not saying that people deliberately are avoiding that and so on, but you have some built in conflicts here, as far as the program is concerned, which somebody has got to resolve.

Commissioner Freeman. I want to suggest something. We heard testimony this morning about the lack of staff in quite a number of programs to serve the aged. We also heard testimony that those persons would not necessarily have to have any long-range training, but they would have to be trained. If there is an area in which there are jobs, there are several individuals who gave their testimony and I recognize that it's perceived, the law is narrow. I would wonder if you could at least consider, you know, the mandate which I read here for vocational counseling and training, that at least you can open up the mind, because it seems to me that much of the block is the block in the mind, that if we perceive vocational training to be inclusive of the elderly and those people could be trained into jobs where they are needed, that would solve two problems, and I wonder if you would consider this and if you would comment on it.

Mr. Crawford. If the individual under our eligibility criteria, if they can benefit in terms of employability, I see no reason why they should not be served regardless of the age—this includes training programs as well as anything else.

Our average length of time for service at this time is a little over 18 months. This is active service. This is not referral time or application. It's from the time they are certified for service until the time of closure. This includes cases that have very small amounts of training, cases that have been in training for several years. I would have no objection to this at all.

We do recognize that there are individuals who are not interested in employment, also. Under our eligibility criteria, they would not be eligible for training programs or any other services that they can use for this eligibility criteria.

We have started a program of our own this year that has no funds from Federal sources or State sources that would allow us to provide training services for certain of these individuals also without any consideration of a vocational goal, a self-help, individual living skills are the primary things, utilization of community resources. But many of these things are part of that program and have no bearing on the vocational aspects due to their choice.

Commissioner Freeman. How large is your staff?

Mr. Crawford. The total staff in rehabilitation runs about 240.

Commissioner Freeman. Of the 240, how many are over 45?

Mr. Crawford. That I can't tell you.

Commissioner Freeman. Would you have that information?

Mr. Crawford. I can get it.

Commissioner Freeman. Would you get it. Would you also give us a breakdown of the staff, especially counselors, by age, race, and sex?

Mr. Crawford. It should be part of the State plan and it's already there.

Commissioner Freeman. Do you know how many minority counselors there are?

Mr. Crawford. I can't tell you offhand.

Commissioner Freeman. Do you know how many females you have?

Mr. Crawford. No, but it's the majority, I can tell you.

Commissioner Freeman. Counselors?

Mr. Crawford. Yes.

Commissioner Freeman. But, you don't know how many Hispanic or black?

Mr. Crawford. It's in my State plan; it's not in my head right now, no. I do not have that data with me now.

Commissioner Freeman. You work with that every day?

Mr. Crawford. No.

Commissioner Freeman. You see the employees every day?

Mr. Crawford. No. They are all over the State.

Commissioner Freeman. How many in your office?

Mr. Crawford. At this point I have 18.

Commissioner Freeman. Do you know how many of them are over 45?

Mr. Crawford. There are only about three of us who are under.

Commissioner Freeman. How many are female?

Mr. Crawford. I'd have to count—about 50 percent.

Commissioner Freeman. How many?

Mr. Crawford. About half of the 18—half, over half.

Commissioner Freeman. How many Hispanics?

Mr. Crawford. Two.

Commissioner Freeman. How many are black?

Mr. Crawford. One.

Commissioner Freeman. How many are Native Americans?

Mr. Crawford. Indians?

Commissioner Freeman. Indian.

Mr. Crawford. That depends on what you call me. If you call me one, then I'm one. If not, I'm zero.

Commissioner Freeman. What do you call yourself?

Mr. Crawford. I don't really know.

Commissioner Freeman. I can see where the problem is. Thank you.

Chairman Flemming. If I could pursue for a moment the line of questioning. One of the real concerns that we have in the field of aging is to make it possible for older persons to continue to be involved in life in a meaningful and significant manner.

Do you feel that more older persons probably have the opportunity of participating in your program, if you are able to count those who went through the program and then who became involved in a regular systematic manner as volunteers in community service organizations?

Mr. Crawford. I can't count them.

Chairman Flemming. I hope to believe that the placement of volunteers is just as difficult a personnel function as placement of personnel for full-time or part-time positions. There is a great demand for that type of service.

Let me be specific. In the city of Los Angeles, 3,000 older persons participate regularly as volunteer teacher aides in the public school system. If the law were worded in such a manner that a teacher, a person who had a teaching career, had an accident or stroke or whatever and it was known if that person was rehabilitated that he would have the opportunity for involvement in the community service type of activity, such as the one I have identified, I would assume that would mean that more older persons would be accepted as participants in the program than is the case today when the closure relates solely to their getting a job.

Incidentally, how do you count a person getting a part-time job? Does that count the same as getting a full-time job?

Mr. Crawford. The basis is on the individual. If the individual's interest and ability happens to be in that area. If they want to work 20 hours a week, we consider that rehabilitation, yes, and I would welcome the change that you are talking about. I would have no objection to that whatsoever. In fact, I would go one step further. I feel that there are rehabilitation services that can benefit older persons even though these older persons may not go into employment, they could still benefit from such services. At this time we cannot provide such services. I would also welcome a change in that area as well.

Chairman Flemming. I'm sure that the statistics that we're getting in Washington will reveal this, but on the homemaker's side of it, I would assume that some older persons have become involved in that program. Just in terms of your own program, is that true that some older persons have become involved in it?

Mr. Crawford. Yes, we do have older persons who are rehabilitated as homemakers and some younger ones that also fall within that same category.

Chairman Flemming. But an older person that was the victim of a stroke or couldn't go through the rehabilitation program to step back into his prior position would be eligible for the program under that classification?

Mr. Crawford. Yes, sir, and let me say I consider this a rehabilitation program as well. It's a vocational rehabilitation program as well.

Chairman Flemming. I agree with you on that, and I think we have to just keep broadening that concept. I am fully appreciative of the legislative history and the efforts that have been made to broaden it somewhat along the lines indicated. But I feel until it's broadened, the rehabilitation program will not provide the opportunities for older persons that otherwise would be provided, and in that sense there is built into the criteria which do have the effect of discriminating against older persons. We just have to recognize that. This is the kind of situation where we would have to say to the President and the Congress, if rehabilitation is going to be brought into line with the Age Discrimination Act of 1975, it's going to require some changes in the rehabilitation act.

You have anything further?

Commissioner Freeman. No.

Chairman Flemming. This has been very helpful. I recognize that you have been involved in this for quite a while and, personally, I think it's one of the most exciting programs in the Federal Government. I have always felt that way about it, and, of course, I was influenced a great deal by Mayor Switzer, and the line of reasoning that I have just been following, I think would be completely consistent with her thoughts.

Ms. Bradley. Mr. Chairman, since the three witnesses have been testifying to variations of the statutes, that it might be possible to open the program up further, I wonder if we might prevail on you in your leisure time in the next couple of weeks to get your recommendations together and send them to us so that we might consider them as we put the report together.

Mr. Crawford. I'd be most happy to do that.

Chairman Flemming. That would be just on a personal basis. In other words, it doesn't have to go through all the channels.

Ms. Gerebenics. If any one of you have any documentation or data, our clerk would be happy to take it. Otherwise, we can arrange later with the staff as to how to secure the documents we need.

Mr. Crawford. You're asking about the racial breakdown within the division of rehabilitation. I do not have the actual numbers. I'm hesitant to use percentages, but I will do so.

Commissioner Freeman. If you will submit that for the record since that was requested and—

Mr. Crawford. We can do it, but I would like you to know that according to the study we just completed this month, when we compared our work force to the work force eligible within the State of Colorado, we exceeded all of the work force estimates in all minorities and in female.

Commissioner Freeman. You will submit that?

Mr. Crawford. It's part of the statement.

Chairman Flemming. Okay. Thank you again, very much.

TESTIMONY OF LEROY CORDOVA, DIRECTOR, COLORADO RURAL LEGAL SERVICES; MAURICE KNAIZER, DIRECTOR, SENIOR CITIZENS LAW CENTER, LEGAL AID SOCIETY OF METROPOLITAN DENVER; ARTURO LUCERO, DEPUTY DIRECTOR, DENVER REGIONAL OFFICE, LEGAL SERVICES

CORPORATION; JON NICHOLLS, DIRECTOR, LEGAL AID SOCIETY OF METROPOLITAN DENVER

[LeRoy Cordova, Maurice Knaizer, Arturo Lucero, and Jon Nicholls were sworn.]

Mr. Dorsey. Starting with Mr. Lucero, will you please state your name and organization affiliation and position for the record?

Mr. Lucero. Arturo S. Lucero, L-u-c-e-r-o. I am the Deputy Director of the Denver Regional Office of the Legal Services Corporation.

Mr. Cordova. LeRoy Cordova, Director, Colorado Rural Legal Services.

Mr. Nicholls. Jon Nicholls, Director of the Legal Aid Society of Metropolitan Denver.

Mr. Knaizer. Maurice Knaizer, Director of the Senior Citizens Law Center of the Legal Aid Society of Metropolitan Denver.

Mr. Dorsey. Starting with Mr. Lucero, could you please describe your agency's function and describe its funding source?

Mr. Lucero. The Legal Services Corporation was created by an act of Congress and funded by Congress pursuant to the Legal Services Corporation Act of 1974. Essentially, we are the successor to the OEO and LSE, Legal Services Program, CSA, excuse me. We—the corporation funds and monitors, and assists legal services programs throughout the country.

Mr. Dorsey. At the regional level your particular responsibility then will be primarily monitoring?

Mr. Lucero. Primarily monitoring and assisting programs in identifying their needs and identifying resources to meet those needs.

Mr. Dorsey. Mr. Cordova?

Mr. Cordova. My program is funded by the Legal Services Corporation, primarily. There are other funds to the program, State funds in a couple of months. There has been a State contribution for the program in Colorado. We get support from the VISTA program which provides VISTA volunteers for the program. In certain areas we may receive revenue sharing monies, contributions from positions funded by the Comprehensive Employment and Training Act. Those are the major contributors to funding to our program.

Mr. Nicholls. The Legal Aid Society of Metropolitan Denver is funded similarly to Colorado Rural Legal Services. Right now our primary source of funding is the Legal Services Corporation. We have supplementary funding from the State of Colorado which terminates at the first of October. That's general fund money; it is not Title XX money. We also have a fairly substantial United Way grant, and those are our primary sources of funding, and we have several secondary sources, including some special grants, one under the Older Americans Act for a senior citizens law project, some special money for a mental health law project, very small grant for a nursing home omsbudsman project, which I understand George Hacker testified about this morning. We also have a few Comprehensive Employment Training Act people, a few VISTA volunteers, and other volunteers as we can muster them.

Mr. Dorsey. Mr. Knaizer?

Mr. Knaizer. The Senior Citizen Law Center is a division of the Legal Aid Society. The money that we get comes from the area agency on aging. That's $15,200. The rest of our resources come in-kind from the Legal Aid Society. We have received resources from project—local services, VISTA, and local organizations such as the Grey Panthers and AARP at various times.

Mr. Dorsey. I would like to direct this question to Mr. Nicholls and Mr. Cordova. Do you have with you records on the age of clients served by your program; do you have that with you today?

Mr. Cordova. I looked for the clients served characteristics and could only get them complete through the month of September 1976 for some reason which I haven't determined. They haven't been kept consistently since then, one of those reasons being an anticipated switchover from our previous reporting system to a reporting system which will be required of Legal Service programs, which is not in place.

Mr. Dorsey. Can you get us the data as of 1976, I believe you said October?

Mr. Cordova. As of September of 1976.

Mr. Dorsey. Do you have that with you?

Mr. Cordova. Yes.

Mr. Dorsey. Are you prepared to be able to present that to us? In other words, is that a copy that you can leave with us when you leave?

Mr. Cordova. Sure.

Mr. Dorsey. Could you summarize for us, for example, can you tell—is it clear from that data what percentage of your clients are over 60 or what percentage are under 21?

Mr. Cordova. Yes, it is. The under 21 is a very small number for various reasons, one of those being some restrictions in the manner in which we can serve juveniles. Those restrictions placed by the Legal Services Act and the way the act was passed, which in most instances requires, or in many instances requires parental consent before we can serve the individuals under the age of 18. There are exceptions to that. The main reasoning I guess behind that is preventing the intervention of a Legal Service lawyer in any way which would be detrimental to the parent-child relationship, and I guess that was the intent of putting that sort of restriction. For example, of 680 persons served in one month in 1976, only 10 were below the age of 18. The breakdown does not fit the age 55 and over because the breakdown—we had break from 45 to 64 and age 65 and over, so it wouldn't clearly show the numbers of persons served which are age 55 and over.

Mr. Dorsey. After 18, what's the next age group?

Mr. Cordova. Actually there isn't any breakdown between 18—it is 16 to 21, 22 to 44.

Mr. Dorsey. To the figure 10, does that go to 21 or to 18?

Mr. Cordova. Actually it goes to 16.

Mr. Dorsey. It goes to 16—16 to 21 there is another number?

Mr. Cordova. Right. Out of 680, 90 persons were in that category.

Mr. Dorsey. And for, well, 45 to 64, what does that reflect?

Mr. Cordova. 120.

Mr. Dorsey. And 65 and over?

Mr. Cordova. 53.

Mr. Dorsey. Mr. Nicholls, do you have similar data?

Mr. Nicholls. I provided that data to Mr. Geller when he visited back a few weeks ago. At that time, when we pulled it out it was determined that 14 percent of our clients were over age 60, and we had been keeping statistics along that line basically because of the institution of the Senior Citizen Law Center and approximately 10 percent were age 21, and we attributed that largely to a fairly high domestic relation or family law service where many of the clients are young people.

Mr. Dorsey. Based on our study so far that figure of 14 percent for over 60 appears to be higher participation rate by clients over 60 than many programs studied. To what, if anything, do you attribute that particular rate?

Mr. Nicholls. Well, I think before we started the Senior Citizen Law project the number of clients in that category was only about 6 percent, so my conclusion is that it is largely because of increased sensitivity on our part as to the needs of older adults and the efforts of Mr. Knaizer to put together an outreach effort for these clients.

Mr. Dorsey. Was there an outreach effort for older persons prior to initiation of the project?

Mr. Nicholls. There was no formal outreach. There was some outreach by attorneys and paralegals visiting institutionalized people, largely in nursing homes, but it was on a case-by-case basis when we would get information that a service was needed. That, by the way, is one of the greatest problems in our attempt to deliver services to older adults, is our difficulty in getting access to nursing homes to provide the services. In one instance we did succeed in getting a formal court order allowing us to enter a particular nursing home that had been refusing us the right to serve clients in that nursing home, but one of the difficulties with the restraining order is that it did not allow paralegals to help us with that effort independently of ourselves, which had been one of our greatest ways of trying to meet that need, and so we weren't entirely successful in our efforts.

Mr. Dorsey. Are all clients over a particular age, for example 60, referred to the Senior Citizen Law Center?

Mr. Nicholls. No, they are not. At one time in the project's history there was an attempt to do that, but we found ourselves without sufficient funds to man a project which could serve all of those particular needs, so the history of our project has been one of less and less direct service and more and more attempts to get the ordinary channels of legal services opened up to this particular clientele.

Mr. Dorsey. Mr. Cordova, have you in your position encountered any difficulty or has your staff pointed out any difficulty, particular problems, in serving particular age groups? For example, older persons or that group, that sort of nebulous group between 18 and 21?

Mr. Cordova. Speaking for the older population first, the program I am with, as differentiated from the program of Mr. Nicholls, as the name implies, is rural legal services. We provide no services in the metropolitan area. Our offices are located in the cities and towns, eight of them around the State. We serve other cities and towns on a circuit-riding basis from those eight locations. I think that if it can be said it is difficult to serve the senior population in a metropolitan area, it is, I would maintain, even more difficult to serve the senior population in rural Colorado, where mobility or lack of mobility of that age group is even more detrimental to their receiving any kind of services, including legal services. We have not had the staff or the resources to outreach in most of our areas other than some very occasional contacts with senior citizen centers, so I think that our lack of a staff and resources on outreach combined with a lower mobility in the age group, especially that 60 and over, combines to make our services probably less available to the older age group than they would be.

Mr. Dorsey. I notice that both you and Mr. Nicholls indicated that you do, in fact, have some resource assistance from CETA, and I wonder also in that regard if any of the attorneys and paralegals on which you rely to provide service are, in fact, taken from the ranks of older persons?

Mr. Cordova. There are at present two older persons, paralegal types, that do outreach work in two of our offices—one in Fort Collins and one in Durango. We presently had funded—we applied for and received a funding under a Title VI CETA proposal which will allow us to hire six senior citizen attorneys and six support staff, namely secretaries, to support the attorneys. We are in the process of staffing that project right now. We are supposed to have it staffed by August 1. We are having some difficulty recruiting lawyers at $10,000 per year, so I am not sure whether, how long it will be before it is fully staffed or if it ever will be, but that is ongoing right now in six out of eight of our offices. In the other two they have individual senior CETA lawyer and nonlawyer positions.

Mr. Dorsey. Mr. Nicholls?

Mr. Nicholls. We don't have any older adults among our CETA work force. It is quite small and varies as Mr. Cordova was illustrating. It goes from students, we do have students which I suppose gets the other end of the scale, and we have one attorney who is a senior citizen specialist for Arapahoe County, and then we have some clerical help, two people in a clerical role and neither one of them are older Americans.

Mr. Dorsey. Mr. Lucero, the question I have requires something of an introduction because it is based on some of the things that we have heard so far today, but it has been suggested not only in the testimony but in the field of research that programs designed to meet general needs, in other words, a general client base should deliver services equally and based on need to all the groups within the scope of the program. These same people suggested that special funds should not be granted to meet those same needs just because the recipient is excluded who otherwise would qualify and potentially benefit. Now, what I would like to have you respond to is, do the legal service agencies, which you have some supervisory and monitoring function, attempt to address the legal needs of the elderly in some aggressive sort of way out of the general funds, or do they tend to rely on special or earmarked funds to fulfill that particular responsibility?

Mr. Lucero. I am trying to fully digest your introduction before I answer that. Since the advent of the Legal Services Corporation and the host of regulations that have been issued by the National Board of Directions, the programs today are required by one of those regulations to go through a process which includes their local members of their local boards of directors, the staff, and the client community to determine what the priority of the program ought to be. It is clear that the legal services programs anywhere in the country, and certainly in this region, simply do not have the adequate amount of funding to provide legal services to every person who would qualify, based on financial eligibility criteria. That has been a process that has been just beginning in most programs in reviewing their resources and attempting to establish a procedure by which they will determine program priority. Prior to that I think—I mean since the advent of the corporation, there is now a greater ability on the part of programs to perform outreach activities. In our monitoring that we do, to the extent we are able to do it, we find that one of the areas most frequently visited through outreach efforts are, in fact, senior citizen centers or other organizations around which elderly people congregate. This is in your urban and rural programs. We do find that such organizations exist more commonly in urban areas. Almost without exception, and we have found that in the programs there is a specialist in the central office if it is a multi-office program or in a specific unit within a one-office program, there always seems to be a specialist who deals in legal problems affecting the elderly, such as social security or SSI problems. I think that the service has always been there. There are differences in, I think, the degree, the amount of resources which go into that effort. I would say that certainly in those areas where programs have been successful in obtaining other money, that has increased the ability to, for example, purchase vans that are specifically used to accomplish outreach to senior citizen centers. I would say that they don't specifically rely only on this additional funding but that funding provides a supplement to their ability to accomplish that end.

Mr. Dorsey. But the service is still supplied, at least partially, from general revenue?

Mr. Lucero. Yes. The only criteria which programs must follow in providing service is that the person be of a poverty level income.

Mr. Dorsey. Do you project that the enactment of the Age Discrimination Act will affect the particular priority which is applied to the provision of services to the elderly? In other words, the various issues that may arise legally but may arise on the basis of the Age Discrimination Act, do you project that will increase or change in any way the priority which is applied to provision of services to the elderly?

Mr. Lucero. That is difficult to say. I couldn't answer that. Certainly, I expect that the issue surrounding older people legal issues—we find generally that there is a constant level of awareness of those kinds of issues and programs; perhaps the enactment of the act referred to will probably increase a great deal that awareness level. Certainly—this was the second part of the answer I intended to provide—in January the Legal Services Corporation and the Administration on Aging did enter into agreement with respect to cooperative activity at the Washington level and throughout the Nation in the provision of legal services to the elderly. That particular copy of that act has gone out to all of the programs under a cover letter from the president of the Corporation which I think—it is a brief letter and I would like to read that to you. I think this addresses the awareness that I was speaking of and your question of whether or not there would be an increase in those types of issues. This is a letter directed to all program directors in the country.

> On January 18, 1977, the Administration on Aging and the Legal Services Corporation signed a statement of understanding designed to promote cooperative working relationships here in Washington and throughout the country to increase access to legal services for the elderly. A copy of that statement is included. With limited resources legal services programs are able to provide only limited access for all of the poor, including the elderly. As more funds become available, however, it is essential that all of us become sensitive to these special problems associated with delivery services to the elderly. We know that older persons with legal problems do not always find their way to some Legal Services offices, and many of them may not even recognize that they have legal problems for which they can obtain help. Many Legal Service programs are already acting affirmatively to increase service to the elderly through special outreach activity, designation of staff to work specifically with older persons, and assignment of specialists in areas of the law that have particular impact with the elderly, like SSI and Medicare, Medicaid. Where programs are not reaching the elderly poor and where these special efforts are not already underway, aggressive steps should be taken.

> The statement of understanding emphasizes certain activities that can occur now without substantial additional resources, including outreach and community education in senior citizen centers, nutrition sites, elderly housing projects, nursing homes, and other places where elderly poor live and congregate. If you have not already done so, we urge you to establish contact with your State and area agencies and begin to explore means for developing working relationships that will result in more services to the elderly. The Corporation has made a commitment under objective 4 to inventory legal service programs and to determine any special activities for older persons they have undertaken already. You will be receiving a short questionnaire from us in the near future and please complete it and return it as soon as you can. We ask for your suggestions as to how Legal Services could best respond to the legal needs of the elderly poor.

This was signed by Tom Urlich, the president of the Corporation.

MR. DORSEY. I would ask, Mr. Chairman, that we introduce that into the record at this time.

CHAIRMAN FLEMMING. Without objection it will be done. I assume you will attach to it the memorandum of understanding?

MR. LUCERO. Yes, sir.

MR. DORSEY. I have no further questions.

COMMISSIONER FREEMAN. Mr. Lucero and Mr. Nicholls, one of the problems that we have heard about so much today is the lack of involvement, the lack of the participation of the elderly, and as I listened to Mr. Nicholls as he talked about the difficulty of getting a lawyer to take a job for $10,000, and I can certainly understand that, but it seems to me that the Legal Services Agency is overlooking a natural pool and that those lawyers who may be employed by some other corporations in the State or in the United Way, part of the United Way, who have reached their mandatory retirement age and so they will be general counsel, associate general or may have retired from the practice but they are not any longer going to be employed. They want to do something and they are trained and wouldn't this be an opportunity whereby the legal services would get a lawyer and an elderly person would get a job and the combination of these two, the aged, the elderly would receive services, and I wonder if you have used that, if you have considered it or if you have not, if you would?

MR. NICHOLLS. I would like to address that question. We have on several occasions—

COMMISSIONER FREEMAN. We even had a witness from the Grey Panthers who was a lawyer.

MR. NICHOLLS. He may have been helping us.

COMMISSIONER FREEMAN. The other point is, you could put him on the payroll.

MR. NICHOLLS. Yes, I get your point, but we should be affirmatively seeking out older adults as lawyers in these kinds of programs. I think there are some special problems with that. One is that if you get outside of the scope of corporate law there aren't very many retired lawyers. Lawyers tend to continue practice until they decide to quit, and they generally do it on a rather—they just slow down. It has been my experience in both rural Colorado and the metropolitan area that some lawyers are well into their eighties and nineties before they quit practicing law, so our attempt has been one of trying to utilize the private practitioner to help us deliver this service, and possibly Mr. Lucero can speak of some very recent efforts that were undertaken to try to recruit older attorneys who are in private practice, still actively practicing, to help us supplement what we can do with staff.

Commissioner Freeman. If you had a competent lawyer to give you 2 hours of time, it may very well be that for a given day that is all you need.

Mr. Nicholls. That has been the direction we have been going, is to try and utilize the private bar in that capacity. One of the things that we have recently done is to request of the Legal Services Corporation a grant in the neighborhood of $100,000 to do a special project which would pay attorneys in the private bar for cases of delivering legal services to hard-to-reach people, including the elderly. It would go further than just the elderly—the handicapped and some other individuals as well. This is kind of confusing terminology, but what the proposal is called is a *pro bono* deductible method of delivering legal services.

Commissioner Freeman. As an attorney I am certainly in favor of the use of attorneys and that the attorney be paid.

Mr. Nicholls. This would provide us with money to pay these practitioners when they deliver.

Commissioner Freeman. Mr. Lucero, could you speak to this?

Mr. Lucero. The Corporation has presently undertaken to solicit a second round of applications for studying alternative means of delivering legal services which is required to be done under the act, and it has just completed a report to Congress, which was also required under the act. The decision as to which of these proposals, and there are always an overwhelming number, more so than there are resources to fund—this is really out of my hands, and our Washington office—there is a division—the alternative delivery study division—that will be deciding very soon on these proposals. We have reviewed ones that have been submitted by programs in this region, the six-State region, and I personally have been very favorable to the proposal that Mr. Nicholls just described briefly.

Commissioner Freeman. One of the other mandates of the Legal Service Corporation is to examine existing legislation with respect to the sort of legislation that we are talking about, age discrimination, and the Federal program that may be available to some groups and not available to others. Is this not precisely within the jurisdiction of the Legal Services Corporation, to identify those areas in which there is denial of programs to a certain group and to make recommendations for changes in the law or to take legal action to protect the client who is being denied or discriminated against?

MR. LUCERO. This is the responsibility of every program out in the field. There is within the Corporation a research institute division which is undertaking the study of some particular aspects of law that particularly affect the poor. There are poverty issues as such and they affect mostly the poor. I am not up to date as to how far that institute has gotten off the ground and what projects it has.

COMMISSIONER FREEMAN. You don't know whether they are identifying the elderly poor, problems encountered by the elderly poor?

MR. LUCERO. Which includes the—whether they have narrowed that down further and specifically studied the issue regarding the elderly poor, I couldn't say definitely.

COMMISSIONER FREEMAN. Does anybody know?

MR. NICHOLLS. I would like to address that. I guess a little bit of getting on a soap box here about what I see in the issue that this group might have some influence upon, and that is the way in which the Older Americans Act is administered. And it bothers me a great deal that the history of the development of that particular piece of legislation has tended to support seed money kinds of theories of projects under the Older Americans Act or at least Title III, and in fact there is still some regulations existing in HEW that support the view that all the Title III money has to be for seed money kinds of projects. I think the history, the legislative history, of that particular act clearly shows that that is no longer the case. Congress intends that Title III money be for ongoing kinds of projects which will benefit older Americans, and because the regulations have never been changed, you see on the local level very serious problems in terms of the way local administrators view their role, and it comes down in terms of decreasing match money over periods of time and things like that, that are predominant throughout the country, and at least it is my view that, that is obsolete in the terms of the legislative history and that a great deal could be accomplished by some changes in regulatory language.

COMMISSIONER FREEMAN. Have you found any comment with respect to this?

MR. NICHOLLS. We are working with Tim Wirth's office, the Congressman from the Second District of Colorado, on a proposal that we intend to submit to HEW, and at the time that we get that together, which should be very shortly, I will be glad to submit it.

MR. KNAIZER. We have contacted various Congresspersons throughout this area and also local legislators, and the problem is, I think, there is a lack of understanding of what effect, you know, the regulations and the seed money concept has on the program. For example, in our program for the most part of the 2 years I have been with the program, we have had two attorneys and a good portion, a good portion of my time has been spent just dealing with the regulations, dealing with the funding process, so in effect you have lost at least half of an attorney's time trying to deal with the process, trying to deal with the funding process, instead of dealing with the client problem, and that, more than anything, at least as far as our special project is concerned, has hindered our ability to serve the community. We spend a lot of time going to unnecessary meetings, making presentations that shouldn't have to be made, and by that I mean making the same presentation four and five times to the same group to explain our proposal to them, to explain what you are doing to them. The whole process that has been set up under the regulations looks good on paper, but in reality tends to be very cumbersome. In this area, for example, you have in this area over 50 groups competing for $300,000 worth of funding, and 23 groups ended up with receiving funding. If you divided the 23 into the $300,000 you come up with a little over $10,000 per group, $11,000 per group, and when you talk about the delivery of legal services to an eight-county area encompassing 20,000 senior citizens who are indigent, you are just not going to get what you want.

In response to your question about hiring senior attorneys, we have had to lay off attorneys, you know. I am now the senior citizen law center. At one time we had seven people employed and now we have one and that's the problem. It is not a matter of not attempting to, because we have gone to groups like the ARP and we have gone to the Grey Panthers and we have talked with John Thomas. The problem isn't we don't try to get this, but the problem is that the money isn't there. You can't hire somebody if you don't have the funds.

Commissioner Freeman. Do you use volunteers?

Mr. Knaizer. We use volunteers. We have at the present time, we have 20 outreach sites located throughout the eight-county area and each of those is manned by a senior citizen volunteer. Some are attorneys, some are not. We ran a special training program to train them as paralegals to do interviewing and without that, in fact, our outreach program would fail because we just don't have the people to do it. So we have trained them. Some of them had previous legal experience either as legal secretaries or as attorneys or just have had general exposure to the legal process, but we are dependent on the volunteers and that's not a strong basis upon which to work a program, and that's been the problem. We get $15,280 that's, you know, cash to run the program, and it is just not enough. That doesn't pay the salary of one attorney. It doesn't pay for secretarial help to do mailings, Xeroxing, and that doesn't pay the cost of traveling. Most of our volunteers travel at their own expense. You know that's not the way to keep people, especially retired people.

Commissioner Freeman. You say the law should be changed? What do you think should be in the law? We would like to have your recommendations and of course if you don't have them with you, maybe you would want to submit them for the record at this point, Mr. Chairman.

Mr. Dorsey. Why don't we speak to that issue? We have four attorneys of obvious competence and qualifications, who have already indicated their familiarity with regulations and statutes, by necessity if not by interest; and since one of our primary mandates is, in fact, the solicitation of recommendations for regulations in the area of age discrimination if at all possible to solicit their recommendations, especially from people who have the ability to read, understand, and appreciate the implications of regulations, would be most helpful.

Commissioner Freeman. It would be helpful if you have any comments, recommendations with respect to the Title XX, vocational rehabilitation, the food stamp program, or any of the programs or any of the services for which elderly citizens may be subjected to "unreasonable discrimination" in areas for change, suggestions for change—it would be helpful for the record.

Mr. Knaizer. If I may make a comment about Title XX, just to get it into the record now. As long as we are here and we have 2 minutes, I would just like to make it very brief. The problem with Title XX in the State of Colorado as far as the elderly are concerned is that Title XX gives such broad discretion to the State, and since the elderly are such a hidden group, even now in fact the programs of the elderly are limited, very limited under Title XX funding, and I just got finished looking over the Long bill, which is the appropriation bill in Colorado, and most of the money goes to child welfare issues, which are important, but I don't even, I don't think that the elderly issues are weighed at all. I think Title XX gives too much leeway to the State to make those decisions and leaves it to the local politics rather than to making determinations of the need. As far as Title XX is concerned, I would like to see a tightening up, somewhat along the lines of Title III where there are four special areas mentioned and those areas were to be given emphasis.

Chairman Flemming. Does any law school in the State of Colorado conduct a paralegal program where they solicit as students older persons, with the program being designed to provide paralegal personnel who can be of assistance to older persons?

Mr. Cordova. I am somewhat familiar with paralegal training in the State. None of the law schools provide a regular paralegal type of curriculum. There are Arapahoe Community College located in the Denver metropolitan area and some of the other State and community colleges that are just now getting into paralegal programs. Those are just general sorts of available curriculums. There is no particular effort being made, I don't believe, on anyone's part to recruit people of any age or status. There is nothing, I believe, in regard to what you are asking about.

Chairman Flemming. Has any approach been made by those who are interested in legal assistance to any of the law schools with the end in view of initiating a program of that kind?

Mr. Cordova. I don't think so.

Mr. Nicholls. Mr. Commissioner, about 2 years ago the University of Denver conducted a seminar, a summer seminar, on the legal assistant or the paralegal in the law, and had people from all over the country, mostly faculty members, but some people like myself who had a different perspective, and I think I would have to say, on the basis of that meeting, that we have got a long ways to go in convincing law schools they should be engaged in the teaching of anyone other than lawyers. It was quite striking to me the real, almost animosity that the group had toward the whole idea of legal assistants.

Chairman Flemming. Some law schools are doing it.

Mr. Nicholls. I am aware that a few are. I think generally that that's a big step, and we can't even get the law school to take clinical education seriously, and paralegal training seems to be even a further step away.

Chairman Flemming. In connection with your comment on model projects, section 308 of Title III of the Older Americans Act, it is true that there is a regulation which is based on the seed money concept, and that was put in very deliberately in an effort to attract additional support for programs in the field of aging. I am not thinking particularly of legal services. That regulation is in the process of being changed so as to delegate complete authority to act to the State agencies on aging. In the meantime, States have submitted proposals for extension and no proposal has been turned down, and no proposal has been turned down because of the conviction that once older persons become accustomed to that particular type of service that the rug should not be pulled out from under them because of that. So I am not familiar with what area agencies may have done in deciding whether or not they are going to continue to include in their budget particular proposals.

Some States may have stopped it before it came to the Federal level, but at the Federal level there is a recognition of the soundness of your position. At the same time, there is not a complete abandonment on the seed money concept, because there are areas of activity where additional support can be obtained from other sources, and when it is, that means that these funds are available to broaden the program and various parts, so you—if you have got any programs that go beyond the State level, I mean go from the State level to the Federal level recommending continuing beyond the 3-year period, you can be assured of the fact they will be approved.

Any other questions?

Mr. Lucero. In response to Commissioner Freeman's request about some focus with problems regarding the elderly that the Corporation makes, I mentioned the research institute. There is also under contract the National Senior Citizen Law Center which is funded by the Corporation. It serves as a backup support center to legal service programs. I believe it maintains two offices, one in Los Angeles and one in Washington, D.C., and I am sure that project,s like the Denderly

Lades project that they make use of the expertise of these centers; and also, with respect to Mr. Dorsey's request for comments on proposed regulations, I think this would be a very good source to contact for that.

CHAIRMAN FLEMMING. Also the National Senior Law Centers receives part of its support under the Older Americans Act, and this is a good illustration of a type of cooperative activity that will develop increasingly, I think, between the Corporation and the Administration on Aging. As you indicated in your letter, the Corporation has recruited a person who will now be literally a part of the staff of the Administration on Aging, who will be constantly building bridges between those resources and the resources of the Corporation. Thank you very much. We appreciate your coming and giving us the opportunity to, during the evening, to hear your views and comments on what is a very exciting development in the field of aging. The legal development, I think, is one of the more exciting developments.

MR. DORSEY. I just wanted to remind those who brought documents with them, especially Mr. Cordova, to please leave them with the clerk for inclusion in the record.

CHAIRMAN FLEMMING. All right, the hearing is in recess until 8:30 tomorrow morning, with the understanding that all of the witnesses are scheduled for 8:30 and to be here one-half hour early and we may start at 8:15.

UNITED STATES COMMISSION ON CIVIL RIGHTS

Morning Session, July 29, 1977

PROCEEDINGS

TESTIMONY OF DON ABBOTT, COLORADO CONGRESS OF SENIOR ORGANIZATIONS, DENVER; GENE BLACKNEY, SUPERVISOR, COMMUNITY EDUCATION, COLORADO SPRINGS PUBLIC SCHOOLS; DR. RAY PETERSON, CONSULTANT, COLORADO PUBLIC SCHOOLS

CHAIRMAN FLEMMING. I will ask the hearing to come to order and ask Counsel to call the names of the first witnesses.

MS. GEREBENICS. There is an additional witness here, Mr. Blackney.

[Don Abbott, Gene Blackney, and Dr. Ray Peterson were sworn.]

CHAIRMAN FLEMMING. We appreciate your being with us this early in the morning. You may proceed.

MS. GEREBENICS. Beginning with Mr. Abbott, could you identify yourself for the record and give your full name and your organization to which you belong?

MR. ABBOTT. I am Don Abbott. I'm employed by the Colorado Congress of Senior Organizations in Denver.

MS. GEREBENICS. Mr. Peterson?

MR. PETERSON. I'm Ray Peterson and I am a consultant for the Colorado Public Schools.

MS. GEREBENICS. Mr. Blackney?

MR. BLACKNEY. Gene Blackney. I'm supervisor of community education for Colorado Springs Public Schools.

MS. GEREBENICS. Thank you.

Mr. Peterson, can you define your role as consultant? What your responsibilities with the department actually are?

MR. PETERSON. The specific responsibility I would have would be to work with the school districts of Colorado—all 181 of them—to do various kinds of programs that are not traditionally found in the normal school system, which means that the district that I work with, the schools that I work with, are involving students in educational activities that maybe are 3 to 5 or beyond the traditional roles or ages of education—beyond 21. But also, not only do we have educational activities as such but also recreational community development and so on—whatever the needs of the community are.

Ms. **Gerebenics**. Has there been an increase in the adult education in Colorado?

Mr. **Peterson**. Certainly there has been. We have actually only been working in this program now for, well, actually, in Colorado about 10 years, I guess, with a major increase in activities in the last 3 or 4 years.

Ms. **Gerebenics**. What do you attribute this new increase?

Mr. **Peterson**. Money. Well, I think we should go further than that. There is a heightened interest, too, but money certainly has a lot to do with it.

Ms. **Gerebenics**. Did your school system use publicity campaigns in an effort to increase enrollment?

Mr. **Peterson**. Certainly. That is the reason for Mr. Blackney being here, is the reason that he runs the effort. He does an excellent job and he can give you the information on that.

Ms. **Gerebenics**. Mr. Blackney, would you do that at this point?

Mr. **Blackney**. Yes. You mentioned publicity. In Colorado Springs we encourage publicity. We buy newspaper space at the beginning of each term—that used to be rather small but is increasing. It used to be that we could buy a full page in a very small print of the type size 6 or 8, which is quite small, and advertise throughout both newspapers in the Colorado Springs area.

We have found now that we have to go to, like, a four-page tab insert in the paper because we can no longer use just a full page. I'm involved in setting it up. Now we'll be hitting about 70,000 homes in the Pike's Peak area in September. That is publicity.

Now, we also use radio spots, those kinds of things, to highlight different kinds of programs. I don't know specifically what you want me to talk about in terms of the local program. I can mention that in Colorado Springs we report or, that is, the community education coordinator reports to my office on a number of programs, what happened, each month. When we look at that each month, we average around 8 to 10 thousand participants each month in the Colorado Springs area. That is all ages—preschool through senior citizens.

Ms. **Gerebenics**. Either one of you can answer this. What sort of barrier, what stops some adults from going back and starting adult education programs? The most common problems or barriers?

Mr. **Blackney**. If I could say a word or two on this—you said an adult. I guess you mean all ages and all corridors. It depends on the activity. We have an adult basic education program that runs from zero to the eighth-grade level and delves into reading, writing, and arithmetic, etc. We also conduct GED preparation. I'd say in that area, one of the greatest hurdles an adult must overcome to the program is the feeling of insecurity because he feels undereducated. He doesn't—or perhaps in addition to that, the fact that he left a school system at one time in his life that he was unsuccessful in, and he has no desire to come back. Our job is to entice him back and show him that many, many people are very much like him and are struggling with the same problems so his security level can rise.

As far as many of the other activities, recreational and so on, there are no real barriers there because many of those are high-interest kinds of things. Maybe dollars could be a barrier there, but most of the programs are not high in cost.

Ms. Gerebenics. Where do your funds come from?

Mr. Blackney. In the Colorado Springs program?

Ms. Gerebenics. In general, Mr. Peterson, the whole program.

Mr. Peterson. They come from various sources, I would say. For the most part, they are underwritten by the school district involved, or, secondly, they come from the Federal Government, the Elementary-Secondary Education Act, the adult education section. About $600,000 for what it's worth, comes into Colorado by that process, from both funds. For the most part, I would say that the school districts of the State are putting in at least an equal amount, if not more, if nothing more than just physical facilities and administration.

Mr. Blackney. In Colorado Springs there is also a sizable contribution from the city itself, along with some private contributions.

Mr. Peterson. May I make an additional comment as far as the barriers that are facing the people we're talking about? I think another thing that is equally important is simply accessibility of the program itself, and I think this is why, to a degree, anyway, that we have found that we are increasing the audience, because we're making it more accessible to them—taking efforts out in the community rather than expecting everybody to come to a central location such as a university or college or Y or something like that, that has only one facility. So we take it out into the elementary schools in the city.

Ms. Gerebenics. Thank you. Mr. Abbott, could you tell us about your problems that you have encountered in your efforts to get some kind of job-related education and your problems with the Veterans Administration?

Mr. Abbott. Yes. About a year ago—as a matter of fact, a year ago March—I decided that I wanted to take up the Spanish language because in my organization they deal with Mexican Americans, and I thought it would be very helpful to know the language, at least partially be able to speak it a little and read it. Reading is easier than speaking. Anyway, I tried to get in as a resident of Colorado. I tried to get the lower rate, but they wouldn't give that to me because I hadn't been in Colorado a year. So I had to pay the out-of-State tuition. Being retired from the army, I knew I was eligible for Veterans Administration benefits, so I applied. All I wanted to take was a

Spanish course and reading comprehension course, which I thought would be useful. They turned me down and said I had to have an educational goal—educational program. If I were going for a degree, they would approve my education. But I was not going for a degree. I had no intention—at age 67 you don't ordinarily do that, if you are working full-time. They turned me down for that reason, and I appealed it and my boss appealed it—in fact, my two bosses appealed it to no avail. They still turned us down for the same reason—said that I had to have an educational goal. In other words, a degree, before they would pay for my two courses, which I thought was absurd.

But what makes me angry is these are regulations that I believe the VA makes itself. I don't think these are regulations that are laid down by the Congress. I think they were given a broad mandate to work up an educational program for veterans and this is what they came up with and I think it's wrong.

Commissioner Freeman. Would you identify the office of the VA and the regulations and the various levels of the VA so that this Commission could follow up on that?

Mr. Abbott. I don't think I could give you the regulation number.

Commissioner Freeman. Would you give us the office, the time? Do you have a written statement with that description of your experience?

Mr. Abbott. Yes, I do have.

Commissioner Freeman. If you would provide that.

Mr. Abbott. I have the entire file on it.

Commissioner Freeman. Mr. Chairman, I would like to ask the staff to follow up on that.

Chairman Flemming. Without objection, we would like to enter into the record at this point the relevant information that you have, relative to your experience, and then we'll ask the staff to get a report for us from the Veterans Administration in Washington so that we can identify the issue as you have stated it and conceivably make some recommendations to the President that would help to clarify this situation.

Mr. Abbott. I have the entire file here.

Ms. Gerebenics. Mr. Peterson, are there any sources of funds or programs that are generally available for persons in Mr. Abbott's position, that you know about?

Mr. Peterson. I guess I don't. I would have to say that I'm not aware of any sources of funds. Some things would come to mind that possibly could be of help to him and that would be some of the community colleges or the universities in the State, and they do make special rates or reductions in tuition or maybe even no tuition at all if individuals are qualified by age, if they're a certain age.

Commissioner Freeman. What age is that?

Mr. Peterson. It varies according to the institution, but most of them, I think, say around 60 years old. Anyone 60 or above, or something like that, and then they have a reduction.

Chairman Flemming. Just to clarify, you're not talking about a program for which you have responsibility? There are witnesses coming later that will be discussing the community college-State college situation.

Mr. Peterson. Right.

Chairman Flemming. But as far as the programs for which you have responsibility are concerned, would any of them help to meet the needs that Mr. Abbott has identified, and if so, under what circumstances could a person participate in such a program?

Mr. Peterson. There certainly would be programs that would be available. I don't know that they would be quite the intensity or have quite the depth of instruction as what he's talking about, but we do have a lot of programs available through the adult education programs of the district.

Chairman Flemming. Specifically through adult education. Do you offer courses in Spanish?

Mr. Peterson. Yes.

Chairman Flemming. Is there any charge for those courses?

Mr. Peterson. In some cases there would be. Gene, what do you charge—$12? $15?

Mr. Blackney. Around $10, basically. One thing that I think needs to be—

Chairman Flemming. Could I just interrupt? Is that for an in-State resident person? Supposing a person has not fulfilled the residency requirements, what would the charge be?

Mr. Peterson. No difference; the same charge regardless.

Chairman Flemming. When you say $15, you're talking about the course for one term?

Mr. Blackney. A course for possibly 20 hours, 10 sessions, something of that nature, and most of what we are doing in that would be conversational Spanish.

Mr. Peterson. There would also be courses—it varies according to the school district. Some would go as low as $5 or $6 for the same amount of instruction.

Ms. Gerebenics. I have one final question, Mr. Peterson. What sort of policies has the State promulgated in terms of establishing educational programs for adults?

Mr. Peterson. We have what we call an accountability process, which means that each school district is, by law, directed to look at the goal of the educational goals for that district. One of those, it's suggested, would be adult education, what is being done in the district. So by law, that has happened.

We have also made several changes in the Colorado laws concerning public education which opened the whole process up more to adults than what it has in the past. If you would like me to, I could leave you a copy of these changes as they appear in the Colorado statutes.

Ms. Gerebenics. Yes. Is this based on needs and you look at the total population when you're deciding what programs go where?

Mr. Peterson. Very much so. It is very definitely on need. All adult programs, we hope—I guess it doesn't always work that way—are based on a fairly sophisticated needs assessment. Each district goes through it on their own. They develop their own assessment process. We don't dictate on that.

Just as an example, I guess, as far as the adult basic education program that Mr. Blackney mentioned, the $600,000 that comes into Colorado probably—please don't hold me to this—60 percent of these funds went into the metropolitan Denver area, Littleton, Englewood. There's over 400,000 adults in the State over the age of 20 that do not have a high school diploma, and over 300,000 of those same adults live in the Denver area. That's where the money is spent.

Ms. Gerebenics. I have no further questions.

Chairman Flemming. Do you keep records on the number of persons who participate in the adult education program for the State over a term or over an academic year?

Mr. Peterson. We do have the records for those that are involved in adult basic education programs.

Chairman Flemming. Roughly, how many did participate in the last reporting period?

Mr. Peterson. The 1976 report shows something a little less than 8,000 adults.

Chairman Flemming. Do you have a breakdown as to age?

Mr. Peterson. Yes.

Chairman Flemming. What do you have, a bracket 60 and above, or is it 65 and above?

Mr. Peterson. It's 65 and above and there was only 110.

Chairman Flemming. Out of 8,000?

Mr. Peterson. Yes.

Chairman Flemming. Do you have a 60–65 bracket?

Mr. Peterson. 55 to 65.

Chairman Flemming. What was that?

Mr. Peterson. 248.

Chairman Flemming. So that from 55 and above, you had close to 400 out of the 8,000?

Mr. Peterson. That's right.

Chairman Flemming. In connection with your efforts to recruit persons for the programs, have you focused at all on those who are about to retire or who have recently retired, either voluntarily or because they were compelled to retire?

Mr. Peterson. I can't say as we have focused a lot of effort, and maybe I should ask for you to restate the question.

Chairman Flemming. What I have in mind is, you have a group of people in the State who have retired, either voluntarily or because they were forced to retire. Some of those persons feel the need for continued involvement in life in a significant way, either as volunteers or as full-time or part-time workers. Many of them, if they are to be involved, need some additional training and help in the placement area. Have you endeavored, in connection with your outreach activities, to focus on that group and if so, how?

Mr. Peterson. Yes, we have done some work in this area. We have not done as much as we could, but two examples come to mind, one being in Denver, and we are cooperating with the regional office and the National Council on Aging, with Dr. Edmund, in fact, and he developed methods with the school district to provide activities for these people that you were describing as well as recruiting them into the program. It was not totally successful. We did it for a year and Dr. Edmund is back in Washington, so I think that is in trouble as far as the program is concerned.

The second area of concentration was in Pueblo, and here it was done in a cooperative effort between the schools and the regional area council of governments down there. Again, with the idea of getting people involved and getting out there and letting people know what was happening.

Chairman Flemming. Have you worked through organizations such as the National Council of Senior Citizens, the Association for Retired Persons, and the National Retired Teachers Association, and so on?

Mr. Peterson. Yes, we have.

Chairman Flemming. In an effort to acquaint them with the program and with the objectives of the program?

Mr. Peterson. Right.

Chairman Flemming. Do you have specific programs designed to bring persons to the place where they would qualify as volunteers or qualify as full- or part-time employees? In other words, do you have programs that you have got specific vocational objectives? Let me give you one example. Do you have any programs that are designed to train persons to be homemakers or home health aides?

Mr. Peterson. No.

Chairman Flemming. That is the type of thing I had in mind.

Mr. Abbott, I gather you're active in the Congress of Senior Organizations here?

Mr. Abbott. Yes.

Chairman Flemming. Has the congress been aware of the contact being made by the State in connection with its adult education program to indicate what is available?

Mr. Abbott. This is an area that we have not gotten into much. We are concerned with the low-income elderly and in trying to ease their economic, their social, various problems in any way we can. We are an advocacy program. We endeavor to do everything we can to promote legislation or programs for the general feeling toward the elderly and try to make people aware they do have problems for which they are not to blame.

Chairman Flemming. But you haven't focused specifically on the whole issue of opening up opportunities for these older persons for continued involvement, either as employees or as volunteers?

Mr. Abbott. In one way we have. We have promoted the idea of adult education. A number of our volunteers around the State are active in trying to get elderly people to attend adult education programs. But these are not offered too many places around the State in the small rural areas. It's happening in a few places like Otero College at Nucla; another one up on the western slope. I can't remember it, but there are several colleges that are offering these, and where this is occurring our volunteers are making this known to the elderly.

Chairman Flemming. As far as you know, has the emphasis been on participating in adult education so that an older person would be better qualified or qualified to serve as a volunteer or be accepted for full-time or part-time employment? Has there been an emphasis on that?

Mr. Abbott. To the extent of some of our volunteers are taking classes, some are college graduates, some are not even high school graduates.

Chairman Flemming. The figures you gave are not unusual. If you take adult education, particularly the level that you're working at, as far as we have been able to determine, you can identify more than about 3 percent of those who are participating that are 65 or above. The feeling on the part of some of us is that lack of participation oftentimes grows out of a lack of outreach designed to reach these persons and indicate to them what is available and what it could mean as far as their own lives are concerned.

As you know, this hearing is dealing with a law passed by the Congress which, when it becomes effective in January '79, will prohibit discrimination on the basis of age on the delivery of any service that is financed in whole or in part by the Federal Government. We feel that oftentimes the discrimination manifests itself in the failure to carry on an outreach program, because not many are going to actually prohibit people from participating because of their age. But if the older people are unaware of it, it has a discriminatory effect.

But your testimony relative to the fact that adult education has kind of come alive in the last 10 years in the State of Colorado is very encouraging, with the kind of barrier which doesn't necessarily relate exclusively to your system which Mr. Abbott has run up against. The kind of thing that we're interested in is making recommendations on this.

Commissioner Freeman. Mr. Peterson, I'd like to pursue this issue from another point of view. Of the 300,000 that are over the age of 20 and do not have high school diplomas, and you have stated to the Chairman your breakdown with respect to age, I would like to know if you also have the data classified by race and sex, and if you could provide it, say, between 55—what is your breakdown?

Mr. Peterson. It's 55 to 65 and 65 and above.

Commissioner Freeman. What is your breakdown as far as race, sex, etc.?

Mr. Peterson. I don't have sex but I do have race. Wait a minute. I do have sex. Let's see. In the—how about over 55?

Commissioner Freeman. Yes.

Mr. Peterson. There are 4 black males, 3 black females, 18 Asian-American males, 15 Asian-American females, 42 Spanish-surnamed males, and 162 Spanish-surnamed females. That is of the 8,000 that were reached with adult basic education and I might explain—

Commissioner Freeman. Yes, because the point I'm going to make and the concern I have is not for the ones that you have reached, but with the ones that you have not been reaching, and the Chairman has raised the question with respect to the retired persons. My concern is with those who are not in the labor force and who are doubly alienated because of the handicap and what programs are in effect to include them, to bring them in. To this extent this is what I'm talking about, the outreach. Could you respond to that?

Mr. Peterson. I can respond to it pretty quickly as far as the public schools are concerned, from my perspective. There hasn't been an awful lot of this done.

If I may expand on the figures I have given you—because the adult basic education effort is designed primarily for those that have less than an eighth-grade education, so that the 8,000 adults technically would have less than an eighth-grade education that we have reached here. Those that are within, say, just a few hours or credits of completing a high school diploma are treated totally differently and I don't have the figures on those.

Commissioner Freeman. Would it not be a good guess that there are more than 8,000 in this city who are not—State—who have less than that and who are not in the labor force and who are not being reached and who are in the low incomes?

Mr. Peterson. That is true.

Commissioner Freeman. Will those people be included in any assessment of needs?

Mr. Peterson. Yes.

Commissioner Freeman. They ought to be included.

Mr. Peterson. Yes.

Commissioner Freeman. Would it be correct that to the extent that the proper agency has not identified that they have a need, that there might be discrimination?

Mr. Peterson. I think you can say that.

Commissioner Freeman. Could that be unreasonable discrimination?

Chairman Flemming. I might interrupt to say the word "unreasonable" is in the law.

Mr. Peterson. I don't—

Commissioner Freeman. I would like to ask Mr. Abbott and Mr. Blackney to comment also after you have finished.

Mr. Peterson. I'm glad you pointed out that the word "unreasonable" is in the law because that's what I was hung up on and I still am, because on one hand it is unreasonable because there is definitely a need for educational programs for people who are really on the lower end of the educational scale. There definitely—and I think any professional educator would agree to that statement. However, if you look at it from the viewpoint of how are we going to get the job done or why hasn't it been done before, then I question if the "unreasonable" holds true, because we were given a charge by public law in Colorado saying we were given so much money to carry that out, and we do the best job we can. Maybe we could have done more, but given the funds, up until this point, this is what we have done.

Mr. Blackney. I have a comment. As I understand what you're asking is, do school districts, for example, make a concentrated effort to go out and find these people and get them in the schools? And for Colorado Springs I would have to say, in Colorado Springs the answer is no, based primarily on the fact that the demands for the adult basic education program which we are serving is so great in comparison to the amount of dollars we have to spend on it that we don't go look for anybody.

In other words, the people who hear of us through our normal publicity come and fill the classes and because we have no further funds to work with, we don't go recruiting more people, because we couldn't staff the program if we found more people. That is not blaming it on the State department who administers to us from the funds, because their funds come to them.

Commissioner Freeman. If you would reconsider this, would you at least in thinking it over and looking this over again, could this not be called "tunnel vision"?

Mr. Blackney. It could be called "tunnel vision," but I'm not sure what you mean in this case.

Commissioner Freeman. You're an educator so I'm not going to try.

Mr. Blackney. What I'm trying to say is the dollars we have to spend go only so far, and if the programs are filled with people, the only way I can work around that is prioritizing and say, first we go after the people of this age and income, and if those people don't fill the classes we'll go to others. But that has not been done.

Commissioner Freeman. I have been involved in the civil rights movement for about 40 years, and I remember we had been fighting the issue of exclusion of minorities and blacks from everything, and I remember some years ago that when we first went to the labor unions, that is what the answer was that they gave, the precise language that you used. The labor unions used as an excuse for exclusion of blacks and other minorities that there were only so many jobs available and therefore they could only take care of their members. And I would just hope that the department of education, or the educational system, would open its mind up to include the total population of a community, whatever that may be, and not limit itself to just working with the resources that are available, because you manage a budget and you can go to the legislature and say, we have a need to serve all of the people and give us the money, and unless you can go and ask for the money, you cannot use for an excuse that you don't have the money.

MR. PETERSON. May I say amen to that and that was a beautiful statement and I wish I had said that. That's what I'm all about, trying to expand the audience of the adult education system. We are doing that.

COMMISSIONER FREEMAN. I mean, you ought to do more and you have the talent and you can do it, because unless we actually open this up, we are just programming for failure. We are existing and not getting anything done, but we're having a few poor people become more poor people and the problem will never be solved.

CHAIRMAN FLEMMING. Do you want to comment?

MR. ABBOTT. As a private citizen?

CHAIRMAN FLEMMING. As an advocate for older persons.

MR. ABBOTT. Yes. I believe it is the responsibility of the Government—all governments, local, State, and Federal—to seek out people who need education, because one thing that seems to be overlooked, often overlooked, completely ignored, is that the older person—I'm talking about 60, 65—grew up with the work ethic 40 years ago, and he has a lot of pride and he has a sense of dignity. He doesn't want to come begging with his hands out. We should seek him or her out and put them at ease and tell them, "This is what is available to you. It's not a handout. It's not welfare." Because I think in the long run people are our greatest assets, and if we educate people, we have a better country and greater people. But you can't just say, "come on, it's here." Some way should be found to put them at ease, so that they will come and ask for it and still retain their dignity.

CHAIRMAN FLEMMING. I want to express to all members of the panel our appreciation for your coming this early in the morning in order to share with us your insights and your experiences. We appreciate it very, very much.

MS. GEREBENICS. Mr. Peterson and Mr. Blackney, if you have documents, please leave them with the clerk.

TESTIMONY OF WILLIAM BOUB, DIRECTOR OF CONTINUING EDUCATION, UNIVERSITY OF COLORADO, DENVER; DR. ALAN DAHMS, DEAN OF COMMUNITY SERVICES, METROPOLITAN STATE COLLEGE; PAMELA DAVIS, ADMISSIONS COORDINATOR, UNIVERSITY WITHOUT WALLS, LORETTO HEIGHTS; RONALD THORNTON, COORDINATOR OF FINANCIAL AID, COMMUNITY COLLEGES OF DENVER

CHAIRMAN FLEMMING. Call the next panel, please.

[William Boub, Dr. Alan Dahms, Pamela Davis, and Ronald Thornton were sworn.]

Ms. Gerebenics. Beginning with you, Mr. Dahms, would you state your full name for the record and your institutional affiliation and position?

Mr. Dahms. My name is Alan Dahms, Metropolitan State College, and I'm dean of community services.

Ms. Gerebenics. Ms. Davis?

Ms. Davis. I'm Pamela Davis. I'm admissions coordinator for the University Without Walls of Loretto Heights College.

Mr. Thornton. Ronald Thornton, the coordinator of financial aid, Community Colleges of Denver, campuses North and Redrocks.

Mr. Boub. I'm William Boub, director of continuing education in the University of Colorado, Denver, and also dean of the summer session.

Ms. Gerebenics. Beginning with you, Mr. Dahms, could you tell us about the "learning for living" program that you have established for your center?

Mr. Dahms. Yes. One of my responsibilities on the staff are the programs that are not for credit, that offer classes in the Denver metropolitan basin, enrolling some 1,800 persons in each academic term in classes, offered at the lowest possible cost, and I spoke with a number of your staff about this. As a subpart of this program, is a program we call "Freedom After 50," which is designed particularly for people over 50, and I think some of very advanced age participate at a fraction of the cost of our regular program. In other words, in the Freedom After 50 they enroll in classes having to do with personal growth, legal problems that people have who are facing retirement or have recently retired, and they pay something in the neighborhood of $2 to $4 for a 12-hour sequence that would ordinarily cost $25.

Ms. Gerebenics. How is that possible?

Mr. Dahms. That is possible by plundering our small margin in other pieces of the program. I'm sure you're already aware that the State of Colorado provides no dollars in the 4-year sector, at least, for any program not offered for credit. This program must be self-supporting and the corollary for that is the prices are driven up. In fact, the public schools in the Denver metropolitan basin have made a new rule and are now charging us rentals of from $5 to $7 an evening to use classrooms, which is another barrier that may come before this Commission.

Ms. Gerebenics. Ms. Davis, could you tell me about your University Without Walls program?

Ms. Davis. The University Without Walls program is one of the seven academic programs at the Loretto Heights College, a private coeducational, nonsectarian school in the Denver area. The University Without Walls program is a program in which the students design their own curriculum with the aid of a faculty advisor and use the resources not only of the college and other colleges in the area but also of the community to get learning and get credit for their degree. Students not only take classes at the Heights, but also do learning and get credit through jobs, through conferences, seminars, independent studies, internships, that sort of thing. We have a growing enrollment. We enroll students 9 months out of the year and also offer credit for learning which has occurred prior to enrolling in UWW and outside the traditional college classroom.

Ms. GEREBENICS. You have data on the approximate age range?

Ms. DAVIS. The students who are currently in the program range in age from 18 to 65 and the average age is 35.

CHAIRMAN FLEMMING. How many are currently enrolled?

Ms. DAVIS. This is based on a figure of 117 and I can give you some further statistics: 30 percent of our students are between 30 and 39 years of age, 15 percent between 40 and 49, and 12 percent between 50 and 65. Our oldest graduate was 74 when he graduated.

Ms. GEREBENICS. Do you have any statistics or data on the academic performance of the students as compared to the rest of the university and also the postgraduate work?

Ms. DAVIS. Regarding the postgraduate work, we did a survey of our graduates in the spring of 1976. Of the 169 graduates at that time, 91 or 54 percent responded to that survey. Over 40 percent of the respondents had applied for graduate school and at the time of the response 27 or 73 percent of the graduate school applicants had been accepted. Five had already completed MA degrees. Over 70 percent responded that their LACB degree had improved their job potential and 80 percent had indicated a salary increase.

Now, I can only compare that with the statistics for the other programs at the college, the traditional programs at the college. In 1975 the college did a survey of alumni who had graduated between 1971 and '75, and of those who answered the career vocation questions, 165 were employed and 21 were unemployed.

Ms. GEREBENICS. Thank you.

Mr. Boub, could you tell us about the continuing education program at the university?

MR. BOUB. We have a large continuing education program that began in, well, actually, classes began in 1912 at the University of Colorado, Denver. We have a noncredit program which constitute about two-thirds of our program and roughly one-third credit. We serve about 9,000 at over 35 different locations in Denver. We do pretty much what Alan was talking about, the noncredit programs, to help people with upper mobility in careers, to fill in leisure time, to help them satisfy their interests and curiosity, and so forth. We do lecture courses. We do classes, 1-day workshops, and we also have credit programs that give housewives and people who want to get their feet wet and maybe are looking into coming back to school and they can take classes offcampus, we are in churches and etc., and as these programs have to be totally self-supporting, we are under the auspices of the commission of higher education. The commission has said that we have to be self-supporting. In fact, we have to show surplus. We get negative general fund support because we do have to feed money back to the commission on higher education, who in turn feed the money out in rural areas where classes are not so large. That has been a bone of contention with us, that we have not been able to serve all different kinds of people in different income groups unless we borrow from one program to do this, because we do not have the funds.

Ms. **Gerebenics**. Do you have any information on the age distribution of your group?

Mr. **Boub**. We used to keep records on this. It ranged from 17 to 70, but as far as keeping—I would say the bulk of our students are in the 25 to 33 category, upper middle class, in a lot of cases, because in a lot of cases our tuition has to return our instructional costs and we have to rent facilities and so forth.

Ms. **Gerebenics**. Mr. Dahms, again, I'd like to ask the three of you, what sort of outreach program do you have to alert people to your programs?

Mr. **Dahms**. We have about an equal distribution of credit and noncredit classes. We have another component which is the service delivery program. We have something like 400 students, college student volunteers, and we use them as volunteers to send them into the communities, the most recent being the Barnum community, having a large number of older and Spanish. Spanish is the first language and English is a first language—it's split. And we set up some neighborhood development meetings and they were sponsoring some activities, all-day Saturday activities.

We hope to, in the next 6 months, develop a retirement college—at least, that is the initial term—and the college is very close to having a policy that as soon as it's no longer possible for regular students to enroll for credit, persons over 60 or 62 will be invited to sit in, in any class of their choice. For instance, Mr. Abbott could have just occupied a seat in class. He wouldn't have gotten credit, but it wouldn't have cost him anything. So the problem of accessibility is almost psychological. So we're very actively going into the community.

Ms. **Gerebenics**. Thank you. Ms. Davis?

Ms. **Davis**. Would you repeat the question?

Ms. **Gerebenics**. As it pertains to outreach, how do you alert the people to your various programs at your university?

Ms. **Davis**. How do we let people know about the University Without Walls? Well, primarily we rely on whatever publicity we can get through TV and newspapers—human interest stories. We do little or no paid advertising. We find that people hear about us very often by word of mouth, and that's very good, and that combined with regular publicity.

Ms. **Gerebenics**. Thank you. Mr. Boub?

Mr. **Boub**. We use the *Roundup* and the Sunday *Denver Post* and three times a year we publish our whole bulletin and distribute about

350,000, approximately, circulation. We spend about $40,000 to $50,000 a year to do this to let people know about our programs. We also take advantage of public service spots on TV and newspaper and a lot of direct mailings and then word-of-mouth, also.

Ms. GEREBENICS. Mr. Thornton, could you now address some of the problems, particularly of older persons, in getting and applying for financial aid to attend universities and programs such as these?

MR. THORNTON. Yes. Number one, I think I should mention the fact that many problems come about through the admissions policies that are not necessarily ones that are problems within the financial aid program, per se. At the Community College of Denver, as an example, there is a minimal requirement on admission of 18 years old or a high school diploma and age is no problem. In our particular programs there, we have funded students up to as high as the age of 73. Currently, we have students that range between 18 and 58, but consequently some of the problems I see for them in obtaining assistance—and one is this new basic grant program which is relatively new in the financial aid field. This is beginning its fourth year. The older students have usually accumulated, maybe, some assets and, consequently, normally these come in the area of home equity, and home equity is taxed in the needs analysis formula as well as in the basic grant formula, and these students are primarily independent ones where responsibility is not an apparent one to finance education. Those assets are taxed on a full basis, whereas the dependent models, there is an allowance against the home equity asset, but on the independent student there is no allowance and consequently many students in lower income categories, even though they may have acquired this equity in a home. And let me give an example:

A typical applicant at our school is a single, divorced, separated mother with one, two, three children that may have acquired the home equity in the settlement, and that sort of thing. She may be on public assistance, but because of that home equity takes them out of the qualification category in some cases.

I have an example I'd like to give you, if I might, in this area. They have a student that is in her forties. The family income in 1976, for which the basic grant is calculated around, the nontaxable income was about $3,500. The taxable income was the $2,300 category. The home equity was calculated at about $15,300. There are six members in the family, four children and two parents, and the eligibility index exceeded 1201 for which a person may not be eligible for the basic grant, primarily on the basis of the home equity problem. Had that particular formula been calculated in the same way as the dependent model is, then that particular student would have been eligible for some basic grant monies.

Ms. GEREBENICS. In effect, the basic education grant program does favor the dependent student?

Mr. Thornton. Yes. In fact, I think all of the financial aid programs favor the dependent student and not necessarily the independent students. The independent student has become more prominent in recent years. Still, the economic analysis in evaluating income and assets is all developed around the dependent model, because it appears to be more sound and things are more stable, usually, than with the independent model, where this year they have had a good job and might have been laid off or voluntarily resigned to come back to school and maybe look at a new goal and a new educational field, whatever they may be attempting to pursue. Consequently, income drastically changes, whereas in the case of the dependent student, things seem to be a little more stable.

Ms. Gerebenics. Is this favoritism toward the dependent student based on statutory construction or administrative policy or institutional policy?

Mr. Thornton. This is based on a statutory policy. It's written in the basic grant formula. It's all in the law and is identified there as such.

Now, the uniform methodology that I spoke of, that is used by the needs analysis services and approved by Congress for all of the Federal college aid programs. That one is more of an agreed type of a procedure and so on, based upon economic factors and so on. The basic grant has some of the similar information on it, but it is not identical.

Ms. Gerebenics. Thank you. I have no further questions.

Chairman Flemming. Thank you very much. I'd like to ask all members of the panel whether any of the admissions policies related to your programs, in your judgment, discriminate in an unreasonable manner against persons by reason of their age? Is age a factor in admissions and if so, is it a reasonable or unreasonable factor? I think I will start—does age play any role in determining who is going to be admitted to any of your programs?

Mr. Dahms. Age is not a variable in terms of admission and, as I implied, it is an attractive characteristic. It defines a group that we are aggressively pursuing in the noncredit sector.

Ms. Davis. No, I can say that age is not a variable, either, in admissions to the University Without Walls program, only insofar as we have students in their application show us evidence of self-motivation and self-direction, and I think the adult students are more inclined to do that than a young student.

Mr. Thornton. Age is not a problem at the community college because of its admissions policy, unless you would say it's necessary to be 18 years or older or have a high school diploma for admission. Upper limits, there is no cutoff, nor can I see any way a student would be turned down from a particular program unless the program requirements within themselves dictated such. And one example of this would be in the health occupations program, where those might state that they do require a high school diploma or a GED and they do require the individual to be of a certain age, as well. Other than that, I see nothing.

Chairman Flemming. They require what?

Mr. Thornton. A high school diploma or GED equivalent, or in some cases they require the student to be of a certain age and usually that is 18 years of age or older. In medical institutions that is 21 or older, and an individual, as I recall, may not be licensed unless he is at least that age, and the same is true in some other health occupation programs.

Mr. Boub. Well, the Denver campus of the University of Colorado is an evening program, has always emphasized older people coming back to school. In fact, the outstanding graduate of the school of business in this last commencement was a man around 55 years of age, and he graduated with the highest honors in the school of business.

I would say there is some discriminaton among all institutions as far as entrance exams, for example, for graduate school. Sometimes when you have been away from school for a great deal of time, it's difficult to perform on these graduate admissions tests. But other than that, I can't see where we have any kind of problem at all.

Chairman Flemming. In other words, your feeling is that some of these tests are biased against those who have not been involved in the educational process in, let's say, over a period of the last 10 years, or something of that kind?

Mr. Boub. A lot of the exams expect a high level of performance on basic math—algebra and geometry. I'm talking about graduate school exams—if you've been away for 10, 20, 30 years.

Chairman Flemming. Is there any opportunity in your total program to provide a person who finds themselves in that position to take some work, which in turn would put them in a position to have a better chance of passing the admissions tests?

Mr. Boub. Of course, we have counselors in most schools in colleges, where they can go to get a study guide to prepare for the exams or get tutoring and this sort of thing. It's not as formalized as it might be.

Chairman Flemming. Do you have a school of nursing?

Mr. Boub. We have no connection with that. That is the medical center. We have four campuses and they are all separate.

Chairman Flemming. As far as your various schools are concerned, when they are represented here in Denver, you do not have any age requirement in the sense of saying that people of a certain age will not be admitted to that particular school?

Mr. Boub. I think if the job opportunities are not there in a particular field, in counseling someone might be told that maybe this wouldn't be the best field to go into because, unless we have 20 or 30 years of working life ahead of you—that might be done on an informal basis. But no one is closed out because of age.

Chairman Flemming. The counselor would provide that kind of advice and the person being counseled would be free to accept or reject the advice?

Mr. Boub. Yes.

Chairman Flemming. And that person would be admitted to the program if they decided they wanted to take their own chances?

Mr. Boub. Yes.

Chairman Flemming. So as far as you can see, a certain age will not be a factor in determining whether or not the person is going to be admitted to the program?

Mr. Boub. That is true.

Chairman Flemming. I'd like to ask this question. Some questions have been addressed to you already on your outreach programs. In connection with those programs, do you in any instances identify the persons who have been retired—these are on a compulsory basis or on a voluntary basis—who have a desire to continue to be involved in life and who are anxious to obtain counseling, training, and placement that would enable them to be involved with what might be a second or a third career. Of that group, have you tried to identify that group of persons, have you carried on an active outreach program with them designed to respond to the needs that they feel for the opportunity for continued involvement, maybe full-time, part-time, or as volunteers?

Mr. Dahms. We have within the limits of our resources, and staff tried to be very aggressive in entering the community and putting people at ease—and the phrase was used earler—and we are finding many of the interests of older persons are problematic, a loss of a spouse or a change in relationship, retirement. And we find under our better living program that the immediate interests revolve around those topics, how to deal with a change in life style, planning for the future, second careers, almost in a general sense of discussion, and that becomes an induction system for them because they say that the person sitting next to them doesn't know any more than I do and maybe I can do this, and a certain magic begins and that person may end up enrolling in regular courses.

We have not targeted it in a vocational sense, but rather, let's talk about it, the options and things emerge from there.

Chairman Flemming. Let me ask if any of you offer programs for those who might be desirous of becoming a homemaker or home health aide?

Mr. Dahms. We do not.

Chairman Flemming. I think we received testimony yesterday to the effect that there was a demand for 400 in that particular area and only 200 available. It's one area that seems to appeal to older persons.

Let me ask this. Is there any use made by the public school system in the State or in the city here, of older persons as teacher's aides on a voluntary basis or some other basis? Is there any program of that kind in operation here in the State of Colorado, and if there is, then is any effort made by any of you in connection with your programs to reach those older persons who might qualify for that type of activity and provide them with some training?

Mr. Dahms. Quite frankly, that is one priority that we have to involve older persons by bringing them in as staff members, but we have not proceeded very far with that at all. We have kind of a two-way speakers bureau and people from the college or the community come in and speak to classes and so on, but I think that applies mostly to executives and people with specific skills, not perhaps the people with the most needs.

Chairman Flemming. You do not know, however, of any interest on the part of the public school system in the State or in the city in utilizing older persons as teacher aides?

Mr. Dahms. Secondary or elementary, no. I'm not aware of it.

Chairman Flemming. But you do have some interest in the possibility of utilizing older persons as assistants or in connection with your own program, but that hasn't gone very far at the present time?

Mr. Boub. We have a college of lost arts where we have made an attempt to start a program for senior citizens, taught by senior citizens. When I say lost arts, this is in the arts and crafts like whittling and tatting and crocheting, and these are lost arts and they are taught by senior citizens. It's kind of unique in that we're also using exclusively senior citizens to teach.

Chairman Flemming. Up to now, you haven't systematically endeavored to identify the type of person that we're talking about here who, for one reason or another, is uninvolved but wants to be involved. It's been kind of a noninvolvement to become involved, but recognizing the need for some college training and placement, if he or she is going to continue to be involved in that group. It hasn't been targeted for special outreach?

Mr. Boub. I go back to my first statement about our first priority is to be self-supporting, and we have to be more than self-supporting because we have to pay rent on all of our facilities. We have to pay the commission and hopefully we have some time left so that we could go out and look at some public service kinds of things. But most of us have a very small staff.

Chairman Flemming. The group I'm talking about doesn't necessarily have to be subsidized. We have a group of people that want to be involved, want to come into it, so then rather than weakening your financial position, they could conceivably strengthen it. How about the other programs?

Mr. Thornton. The Community College of Denver has only recently really become more involved in the adult education types of programs, and primarily right now they are with the school districts within their disciplines for which they are serving, and consequently since enrollment had grown so rapidly in earlier years, there was really little time to do that. I know that's no excuse for not looking at those things, but I think as I see it now, that it's becoming more evident and there is more interest in getting individuals involved, particularly older adults as well.

Chairman Flemming. Do you want to respond?

Ms. Davis. As regards Loretto Heights College in general, I can say that we offer courses for senior citizens at $10 apiece, which is a considerable reduction from our $100 per credit tuition. And beyond that we are not targeting retirees. We have a new special program through University Without Walls called Project Transition, which is for adults making transitions in their careers, education, in their personal family lives. That offers a series of four 1-month seminars in the adult development, psychology of adulthood, and there's a career counseling piece to that as well as the beginning look at assessing life patterns, skills, and confidence.

Chairman Flemming. Well, just in our educational system, we don't hesitate at all to make an investment in training for the younger person, particularly, I'm thinking, in terms of first careers. As we are thinking in terms of utilizing our educational resources, I think the question is raised as to whether or not there is an obligation on the part of educational institutions to try to provide opportunities for placement or training for older persons, who for one reason or another want to become involved in a second or maybe even a third career. Again, we look at the statutes that Congress has asked us to look at to make recommendations on. We have studied whether or not certain actions or certain failures to act, in effect, constitute discrimination against persons simply because they are in a particular age bracket. In connection with all of these services, we have been trying to probe as to what the outreach program is and how that is geared and try hard to get to the needs of the persons in a particular age bracket. For example, Congress in connection with the food stamp program directed the Department of Agriculture to become involved in outreach programs to get at persons who had this particular need. Such areas as mental health—very little in the way of outreach programs are directed toward older persons.

I have used statistics. You have heard me use it in connection with the other panels. When it comes to the whole area of adult education, the degree of participation, for whatever the reason is, is very, very small in terms of older persons.

We appreciate very much the opportunity of getting acquainted with your programs and getting the thrust of the programs. I can see that you certainly, as individuals, are committed to broadening the base as far as the adult education is concerned. I appreciate very much your comments.

Ms. Gerebenics. If any of you have any documentation you wish to submit, please give it to our clerk.

[Dr. Kenneth Kindelsperger, Dr. Morris Massey, Dr. Henry Silver, and Dr. Harry Ward were sworn.]

Ms. **Gerebenics**. Beginning with you, Dr. Massey, would you please state your full name and your position and your institutional affiliation?

Dr. Massey. I'm Morris Massey, associate dean of undergraduate studies at the University of Colorado, Boulder.

Dr. Kindelsperger. I'm Kenneth Kindelsperger, the dean of the Graduate School of Social Work, associate vice chancellor of graduate affairs at the University of Denver.

Dr. Silver. I am Henry Silver, director of the child health associate program, professor of pediatrics, and the associate dean of admissions of the School of Medicine, University of Coloraoo Medical Center.

Dr. Ward. I'm Dr. Harry Ward, dean of the School of Medicine, University of Colorado Medical Center.

Ms. **Gerebenics**. Beginning with you, Dr. Ward, could you please describe whether and how age is taken into account in the medical school admissions process at the University?

Dr. Ward. I think I should review how the medical student is admitted and then we do have some information regarding our experience as it reflects age. There are four factors that are used in evaluating a student for acceptance into the medical school. One is the student's grade point average, the second is the school of medicine's admissions test, a third factor is the student's recommendations, and the fourth is specific interviews with the admissions committees. The grade point average—there is special emphasis toward the student's science grade point average as well as the overall grade point average.

As far as the overall influence of each of the four factors, I would estimate that the grade point average and the MCAT [Medical College Admission Test] represent about 50 percent of the importance for admission. The other 50 percent is the recommendation as well as the interviews, although there is no rigid formula on this,

Our experience is that, in a general way, the group of applicants represents, as you would expect, the average age of students graduates from undergraduate colleges and the average of students just out of school is around age 23 or 24. But we do have applicants to the medical school ranging of this last year—the oldest applicant that we had was age 33. But we don't [have] a lot of applicants that are older than age 30.

In my recollection, the oldest student in the school of medicine accepted occurred about 5 years ago. We had an applicant who, at the time of admission, was age 39, and so at the time this person graduated he was in his very early forties and when he completed his house officer training, he was about 45.

Ms. **Gerebenics**. So, it's more self-selection process? The older applicants aren't applying to medical schools?

Dr. Ward. Yes.

Ms. **Gerebenics**. Is that a factor that is taken into consideration at all, though, in your evaluation? Length of service later on, length of practice—are these considerations?

Dr. Ward. They are certainly not written considerations. I suspect they are considerations. The information would indicate that there are numbers, though, that we have a higher acceptance rate. Let's say as an example, if we take our students that were our students that applied that were over the age of 28 in the class of 1977 that will be entering in September, we had 125 applicants over the age of 28. I'm sorry, we had 16 students over the age of 28 that were admitted in a class of 125, or that's 12.8 percent, and yet in that same age category, of all of our applicants, only 7 percent of the applicants were over the age 28, and we have broken this down and we will supply the Commission with that. So our information would indicate that you certainly have as likely a chance to be accepted if you're over age 28 than if you are under age 28. But I can say with honesty that there is between the ages of, say, 28 and 35, that—these are hard numbers—that age has not been a factor.

Now, if someone was applying at age 38 or 39, as in the example I cited, there would be very major discussion occurring within the admissions committee of that school. I think the discussion would hinge around the arguments of—since medical school is 4-year curriculum and you have an internship and a residency of at least another 3 to 4 years, you're looking at a person's whole time to complete their medical education in their midforties and they would then have certainly a lesser likelihood to have as much practice time as someone who completed it at age 30, and since we do have so many applicants to medical schools, I think that is something that our admissions committee would seriously discuss.

As I said, I think our oldest student was admitted at age 39. I can't honestly say that there is no stoppage point. Our numbers would indicate that from 28 to 35 there is none. Am I answering your question?

Ms. Gerebenics. You are and I just wonder if, from your personal experience, if that is a reasonable basis of saying that at age 45 one will have from 25 to 30 years of practice, do you then take into consideration that life expectancy is much lower due to medical history in some families that experience a decrease in life expectancy of 15 to 20 years? Is it any more reasonable to say that balance—or not consider the medical history factors over the age factors?

Dr. Ward. Well, I think that is a decision that society really needs to discuss. We have 1,800 to 1,900 applicants and so we certainly have a very large pool for 125 positions, and should we be allocating more positions to older applicants? I can just render my opinion and my opinion would be, if in fact you had applicants that were totally equal and one was age 40 and one was age 30, I believe I would accept the age 30 applicant if they were totally equal.

Ms. Gerebenics. Thank you. Dr. Silver, could you describe the child health associate program and the type of person that is participating?

Dr. Silver. It's a program to train individuals to work with physicians in providing primary health care, and the program consists of students who come to us with 2 or more years of college education. The prerequisites are relatively simple to meet. They come to the University of Colorado Medical Center and they spend 2 years at the medical center, and many of these people are 21, 20, but the range is quite extensive. They come and during that 2-year period, they take most of the courses that medical students take but tailored to the individual that will go out into practice and work in pediatrics, take care of only pediatrics in office studies, in the newborn nurseries, and as a result, instead of having the 4-year curriculum for medical students, we're able to condense that into 2 years.

In the third year with us they have an internship that is spent primarily in the community and physician's offices and neighborhood health services and various settings of that type, and when they finish they are certified by the State of Colorado and take an exam and then they can go out and can practice medicine. They can diagnose, provide treatment, they can counsel, they can write prescriptions, they can perform approximately 90 to 95 percent of all the functions that pediatricians perform in their offices and in caring for newborn infants.

Ms. Gerebenics. And as to the applicants, I understand the program is attracting older applicants?

Dr. Silver. The applicant pool is quite extensive. We take 20 students. We are the only program of its kind in the United States. We have, on the average, about 250 true applicants that really want to come into the program. So the chances are about 1 in 12, whereas the chances of getting into the medical school is about 1 in 3, so the competition is much keener with us.

The age range is anywhere from—this year we had a 19-year-old apply that's going to be 20 about 2 weeks after she entered, and we go up to 44 years of age. This year our entering class, 30 percent of them are over 28 years of age. We usually have a fair number of older applicants, both by chance and by design. We make an effort to take older applicants into the program.

Ms. Gerebenics. Is this a policy judgment that is good training investment? Are you concentrating on getting older applicants?

Dr. Silver. In part, the reason for the older applicants is we're particularly interested in providing health care in areas that are presently underserved in ghetto areas and around central city areas and rural areas, and sometimes we're impressed by the fact that an older individual establishes themselves in an area and decides what they're going to do and demonstrate that by their performances in the past. They may not be health professionals, but in other ways we feel they are more likely to go back into the underserved areas, and more than half of our graduates actually do serve in those areas. This has been one of the reasons.

The other reason is that we find that older women in particular—when I speak of older women, they are very young to my eyes, but on the scales they are in the older level—older women often have had experience of various types that we feel would be very beneficial to our students.

Ms. Gerebenics. I have one final question for you. Is there a geriatrics counterpart to your pediatrics programs?

Dr. Silver. No, there is not.

Ms. Gerebenics. Dr. Kindesperger, could you tell us about the University of Denver's Institute of Gerontology?

Dr. Kindelsperger. I think what I'd like to describe is our philosophy of how an institution of higher education should approach the whole issue of older aging persons, and that is through a comprehensive commitment of total university resources in what we call an institute on gerontology. There are prototypes of this at various universities around the country now, but in this part of the country we have not developed it very far. This is an all-university institute which has three major admissions. One is curriculum development and the second is research and the third is community services related to older citizens.

In the curriculum area, the primary purpose is to permeate across the whole university courses in information about older persons in the arts and sciences areas, sociology, psychology, and in the professional schools of law and social work, businesses and this is encouraged by giving appointments as gerontological fellows in the institute of key faculty persons from various groups. They meet and interchange ideas and begin to develop some syllabi and course content.

One of these things it attempts to address is the attitudinal response that many younger students have about older people, a lot of mythology, a lot of misunderstandings, but what is heartening is to see the younger people begin to get very interested in relating to older citizens, to begin to take courses in death and dying and begin to get interested in the issues of people as they begin to mature.

In the research area, the attempt is to encourage research across the entire spectrum of both the liberal arts areas and the professional schools. We at the University of Denver, I think largely because of the leadership of Chancellor Mitchell, are committed to looking at the particular impact of minority cultures on problems of citizens at large, and we have concentrated much of our doctoral research recently in particular to aging problems related to ethnic and minority groups. But that emphasis on research is to promote interdisciplinary and interprofessional-type research rather than the single type of research around a specific area. Not that that isn't important.

The community services area is an outreach program. We have what is called an open enrollment system that senior citizens over the age of 65 can enroll in any course in the university on the second day after registration where there are openings in any course. We do not set up separate courses, but we attempt to encourage older citizens to enroll in courses with younger students with no charge at all to this program. We have also developed a group of retired faculty members from the university known as Corona Associates that are part of our institute and they are developing a series of adult education activities which we provide leadership to.

The plan with the new Davis Institute here in Denver, connected with the Denver General Hospital, to set up a field training program to cooperate in the areas where we have professional competence, such as law and social work and other areas to work with them. We certainly are only in the beginning phases of this. Thanks to the Administration on Aging, we have received a grant to encourage this and we are in the second year. But it seems to be this type of comprehensive approach is one model that should be considered by many universities.

Ms. GEREBENICS. Dr. Massey, can you describe the admissions process in your business school and whether age is a factor in that process?

DR. MASSEY. All right. Age is not a factor. Most of our applicants come from recent high school graduates; it's kind of the normal pattern. We require a certain position in class, based upon whether the student is in-State or out-of-State, we require a GED or high school diploma and grade point average which is correlated with the position in class.

The previous panel mentioned that one of our graduates was 55—was at the top at the time he graduated. We do have students primarily clustered at the lower range, but also in the upper range, above the normal distribution of undergraduate students.

Ms. GEREBENICS. Have you noticed in the admissions office that the general student population is getting older than average?

DR. MASSEY. It's definitely drifting up. I think we're going to start seeing that more and more because the national demographic change in total population base is very obvious in our Denver campus operation. The College of Business does operate simultaneously, coordinated, on all three campuses of Boulder, Denver, and Colorado Springs. We have assignment administration through the system, and in Colorado Springs and Denver there is probably—the average age is 5 to 6 years higher than it is for our students at Boulder. So we have seen this pattern develop in the metropolitan areas. We see it shifting also on the campus itself.

The University of Colorado has a program that we are taking part in on a limited basis, on a demand basis situation. It is a program which is called "life begins at 60." It's a free tuition audit system for citizens of the State of Colorado over 60. We also accept people in the program at 56, 57, 58 that express an interest. But it was approved by the board of regents, and they are allowed to audit any class they want, similar, I believe, to the DU program.

Ms. Gerebenics. On day-to-day admissions at your university and curriculum changes and just curriculum in general, has this trend toward the older students impacted on that in any way?

Dr. Massey. Not in a direct way. I think we are hearing on the campus of the University of Colorado more concern with continuing education, sort of an outreach program. Very realistically, this is strictly my personal opinion, but it seems to me that continuing education programs on a national level—and that is, if you look at the Nation—have been snubbed by the traditional academic community. They kind of look down their academic nose at bothering to go out and teach to a group of older citizens or business people. To the extent that rules do exist on campuses and various schools and colleges that will prevent faculty members from taking part in continuing education programs. Again, it varies by schools and colleges, according to the disposition of the dean of that school or college. It's rather subtle bias that is anti actually doing something to reach people who are nontraditional students.

Ms. Gerebenics. Thank you. Mr. Chairman, I have no further questions.

Chairman Flemming. Dr. Ward, I could go to your last illustration, you were talking about an applicant, one 40, one 30, equal as far as the merits of the two cases were concerned. You felt that probably under those circumstances an admissions committee would resolve the tie, break the tie if I may use that particular terminology, by turning to the person 30 rather than 40. Assuming that similar situation, but both persons age 30, some other device or some other approach would be taken in order to break the tie. I don't know what it might be. I'm assuming here that you're going to admit 125 and this is the 125th and you have really got a tie between two persons. You have to decide who is to be the 125th and both were age 30 or 20 or whatever, along in there. Some way, some approach would be taken to resolve the tie between the 30-year-old and the 40?

Dr. Ward. I don't quite understand your question.

Chairman Flemming. You indicated, you took as an illustration, that here's somebody that is 30 and somebody that is 40. On the merits of the two cases they are the same. Both are of equal merit. That being the case, you feel that the admissions committee would resolve what, in effect, is a tie in favor of the person 30 as contrasted with the person 40.

I'm assuming a situation, a comparable situation. In this particular case it's involving two persons of the same age, namely the age of 30, and you have to make a choice between either A or B. Some factors would come into the picture which would make it possible to make a decision between A and B if both were 30. The question that I'm raising is whether or not the factor that would be used to resolve the tie between the two persons age 30 shouldn't be used to resolve the tie between a person 40 and 30?

Dr. Ward. Let me go through some of the factors that we look at and, as I say, we do not have a rigid formula in any way. But if in fact we have candidates that were equal and the same age, let's say, the kind of factors we would look at would be the—the primary factor would be the individual's ethnic background, and we have in our school a very active affirmative action program and for the minority candidate would have a major factor. Another would be sex. We're now looking at an entering class of 125; approximately 40 are women, whereas a decade ago, it was 9.

Another factor would be whether they were born in a rural community. Say we had an individual that was 30 and another that was 40 and were equal. I have said that in my opinion that the age 40 would be a negative in comparison to the 30. That negative factor can be counterbalanced by other factors. I guess what I was trying to say is that I do not believe that there should be any, or that there is, any justified reason for not looking completely equally at the candidates but up to some point higher than which I don't think it's reasonable, I guess.

Now, what is that point? You asked if 40; in my judgment 40 would start to be negative. I see no problem between ages 20 and 35 and we have never received evidence that this has been done, but once you start getting over 40, it seems to me that it's not an absolute contraindication to acceptance, but I think it would be a negative factor.

Chairman Flemming. The person that is 40 and is turned down because he was 40 or she is 40, would then be in a position to allege, certainly, that she or he had been discriminated against on the basis of age?

Dr. Ward. I'm sure they could.

Chairman Flemming. I don't know how familiar you are with the law Congress has passed, and Congress directed us to conduct studies on before it became effective, but basically it is a law that says that in the delivery of services financed in whole or in part by the Federal Government, that there must be no unreasonable discrimination on the basis of age. Assuming that law is in effect and would become operative in January 1979, by that time the Secretary of HEW will have issued the regulations under which the law will be enforced.

Do you feel that given that hypothetical case that we've been taking a look at, that the student age 40 would be in a position to allege that he had been discriminated against in an unreasonable manner on the basis of his age?

Dr. Ward. I think that the student would certainly have a justified or—I question justified—but would have a case and could claim discrimination. I believe there is such a case in the California courts now of an individual who has completed his army service and is now, or has now alleged that one of the medical schools in California discriminated against his application to the medical school on the basis that his age was 40, and I don't know how that is going to be resolved, and, as I say, the completion of medical school and 3-year residency, that would put this new person in the health delivery system at about age 47, and I do not believe that it should be a sole determinant, but I don't think it also should be a completely neutral factor.

Chairman Flemming. When this law becomes effective, I gather that the admissions committee will feel that they should take an even closer look at that kind of a determination than is the case at the moment when the law is not yet effective.

Dr. Ward. Yes, I want to be sure that you understand that most medical schools and certainly at our medical school, we have the admissions committee consisting of 15 people and this includes 3 students, includes community representation, and it really is sort of a collective decision. There is really no one person who sets down guidelines and these are the decisions. The fact is, we have not had many applications from that age. I think if I was involved with that particular student, I would make every effort to try to assist the student. Our discussions would be in trying to look at other health professional careers as well as medicine, such as the type of program that Dr. Silver is involved with. That program is going to be directed toward the ambulatory care of children and it was restricted so it would only be a 3-year curriculum. So, in fact, an individual at an older age with more maturity is actually more eligible to get into the health manpower pool faster.

Commissioner Freeman. Dr. Ward, yesterday we received testimony from witnesses who were in varying degrees providers of health services, and one of the themes that came through was that the elderly are neglected by the medical profession. This testimony was given not just by persons who are not physicians, but also was stated by a doctor. And it occurs to me that that hypothetical case which you gave of the person that might be graduating from medical school at 45 might be the individual who would not be neglecting the needs of the elderly.

Another amazing statement that was made was that the psychiatrists would prefer to treat the young, attractive female. That was made twice yesterday. That was a statement that was made, and, you see, the psychiatrist has gone through the school of medicine, has gone through the internship, and I believe it takes an additional 4 years—and of course, it's my opinion that there's something wrong with that psychiatrist. But, anyway, that was said and that's in the record. I'd like to pursue that, even going to your alternative suggestions that the child health associate, which has tremendous potential, and related to a statement also that was made that the community mental health centers are understaffed, that even the Davis Institute, I believe, is understaffed, that perhaps the medical school might consider the program of a health associate in gerontology whereby people could be trained and would be focusing on an outreach program to bring in the older persons in this, and this means maybe from 40 on.

I'm just suggesting that for your curriculum, so that if you would at least speak to it, at least begin the appeal to open the minds, expanding minds to include a recognition that there is a great deal of talent and energy in the older person that is underutilized, and that might bring some help to the whole problem of even providing health services.

Dr. Ward. I think there is a real need to look at a new health professional group, be the equivalent of the child health associate, but for the elderly, and we have initiated such a study at our school. Dr. Silver can comment much more extensively. Dr. Silver has been a national leader, not only in child health but also in the entire field of physician assistance. We are currently looking at a gerontology associate program.

I might comment, if we set up a gerontology associate program, I have not envisioned that it would have a major emphasis of taking applicants that are themselves elderly, not necessarily. I don't know of any correlation that they would be more likely to be interested in gerontology because of age. I agree with you.

Commissioner Freeman. Not necessarily more likely to be, but if there is presently the mindset, and apparently there is, if you're over 40 then you can't make it through the course, then at least you could open the minds so that if somebody is 50 that applies, that there will be somebody there. Maybe we have to eliminate all the present admissions folks and get new ones or maybe get rid of all the faculty there. Whatever you have to do. I'm not necessarily saying get rid of you witnesses here today, but just cut through and get the attention of the folks that would at least see that the person who is 45 or over is a breathing, thinking person and can outthink a whole lot of folks.

Dr. Ward. I have no argument with that, Ms. Freeman. I think that the medical schools, health professional schools in general, have not emphasized in their curriculum the area of gerontology, and that needs to be done. We have not emphasized to our students the kind of special needs that they should have in the care of the elderly, and so every school—and I don't think it's an exaggeration—I think every school has now changed its curriculum to make the kind of changes you're emphasizing, to study gerontology, to look at the things that we have looked at in the city of Denver and by the Davis Institute that I think will assist this area to be a real leader in gerontology. I think those efforts should go on. Schools are developing separate fields of gerontology, separate program of gerontology, whereas I'm looking at a gerontology associate program at our own school.

Commissioner Freeman. The point I want to make is, as long as you receive public money, Federal or State or local, and exclude this segment of the population, then you're guilty of unreasonable discrimination on the basis of age.

Dr. Ward. I'm sorry if I have implied that we would exclude those people. The question was asked me if they were equal, who would you take. As far as I know, we have not excluded anyone.

Chairman Flemming. I definitely get the distinction that you're making. I have in my own mind a real question in the area of discrimination, and we are considering two persons and we agreed that they are of equal merit, although that is always a very difficult statement to make and to defend, but assuming that those two persons are of the same age, some factor will be used to make a decision as between the two. You identified a fair number of the factors that your admissions committee would utilize. But if the decision is made on the basis of age and the 30 is taken against the 40 and the fact that the admissions committee is looking that person in the eye and saying, "You're qualified, we recognize that, but we're going to make the decision on a factor that is not related to your qualifications, not related to your worth as a human being, we're going to make it on the basis that you have reached a certain age." Along with Commissioner Freeman, it seems to me that a strong case could be made under those circumstances for concluding that that constituted unreasonable discrimination on the basis of age, and I recognize that your school and your committee does not automatically turn down a person because of age, that you do review his or her qualifications, just like you do a person of a younger age, and I think that is sound practice. But it seems to me that when this act becomes effective, then admissions committees are going to have to give very careful consideration to whether or not they are going to make a decision to admit one as against another solely on the fact that that person has reached a certain age. And I recognize that this is going to require a very careful review of admissions procedures in all medical schools and many other professional schools. In the school of nursing, it's a part of the medical center, is that correct?

Dr. Ward. Yes. It has a separate program.

Chairman Flemming. Are you familiar at all with the policy of the school of nursing in terms of admissions?

Dr. Silver. I know something about one part of the school of nursing. We started a nurse practitioner program at this medical center, and nurse practitioners come—most nurse practitioners are women and men who have completed their training and most of them have been out in practice.

Chairman Flemming. They have an RN?

Dr. Silver. Right. We find that the majority of the nurse practitioners in some areas are much older than the undergraduate student that is coming in, so there has been push recently to give the additional training to those men and women who are most able by experience and training to take on the additional pressures of this training.

Chairman Flemming. Suppose either a woman or a man applied for admission for an RN program, had not had previous experience—let's assume that person was 38 or 40. We have been focusing on 40. Would age be a barrier or a handicap in that particular instance, to the best of your knowledge?

Dr. Silver. I can't speak to that.

Chairman Flemming. You're not close enough to that so that you can comment on that issue?

Dr. Silver. No.

Chairman Flemming. I know of situations where it has become a factor, a controlling factor. I know of other situations where it hasn't. It seems to me that the issue is somewhat comparable to the issue with the medical student.

I'd like to personally express my appreciation for the leadership that is represented by the multidisciplinary approach at the University of Denver. As you indicate, this is happening in other parts of the country, and I think it's very encouraging in terms of dealing with the basic issue that Commissioner Freeman has dealt with, namely, making available to our society persons trained [in] various professions who understand the field of aging and who understand the issues that confront older persons and who have some idea of how to deal with those in a constructive manner.

I used this illustration yesterday, and I'm not generalizing from it, but I think it typifies some of the things that we're up against. It's a conversation that I had with a physician that I respect in the District of Columbia, and we were talking about aging and he just made a comment, "I just hate to go to nursing homes and make rounds." And I looked at him and said, "Why" And he said, "Because we like victories, not defeats." Well, that is a value judgment and my hope would be that as a result of these interdisciplinary programs, that people in various professions will have the opportunity of confronting the value of issues of that kind and thinking it through instead of dealing with it in an offhanded manner.

At Denver, at the university, as you work with this interdisciplinary approach, do you confront problems in various schools where age does become a factor and in making decisions as far as admissions are concerned? Does that become one of your missions as an institution, to try to help other schools come to grips with that issue?

Dr. Kindelsperger. We don't have a medical school and I think I can appreciate Dr. Ward's dilemma, but I think there has been no conscious confrontation at this level until, when we formed the institute and began to develop a universitywide set of fellows of the gerontological institute. There's been about 80 members of the faculty that meet every quarter. The interesting thing that you brought out is that the value or the assumption of a part of our society is that young people just are not interested in old people. But then when you began to demonstrate that there are courses—why are young people interested in death or dying? They're not going to die for a while. But they begin to get a compassion and an understanding that can really affect their future.

Chairman Flemming. When you offer that course, it becomes one of your most popular courses?

Dr. Kindelsperger. Yes, yes; it really was. The law school introduced a course on the legal problems of older citizens, and they were astounded by the number of students that were interested in enrolling in it, even though the average age of students in law school is in the upper twenties or early thirties.

In my own school and profession, I think social work has been on the cutting edge in many ways, relating to older citizens, that even here, when we tried to plan field work placements—our students are required to put in 20 hours a week—there is a resistance to go to nursing homes, to go to gerontological centers, partially the same attitude that your physician friend talked about. It's discouraging. But once we immerse them into the experience, the attitudes shift. It's amazing. They begin to enjoy the satisfaction. I think the largest obstacle is overcoming the traditional value judgment that old people are helpless or hopeless and unworthy. It's not so.

Chairman Flemming. I'd like to turn for a moment to the college of business. In connection with your program, have you made any effort to offer some programs to older persons who have had, possibly, some experience in the field of business, but who are interested in taking the kind of work that would make it possible for them to become involved as volunteers or employees with community service organizations in terms of working on the management side of the business, management side of the community service organizations? In other words, have you identified this as a possible second career or third career and then offered some courses that might help persons that might be interested in doing that as a second or a third career?

Dr. Massey. Not directly, in terms of a program that would take these people in to get them the training. We do have, in the area as a part of the courses in both management and marketing, sections within some of our courses that are relatively new within the past 2 or 3 years that deal with older segments or the population.

We did a very lip service sort of change 3 years ago by changing our name from the School of Business to the College of Business and Administration, and the decision among the faculty at that time was that we felt more and more of our graduates would be going into administrative positions outside of the regular business community—government, public service, etc.—and would be applying the skills, the information, which they had learned through our courses in these areas. But this has not been a direct application.

Chairman Flemming. I'd like to say that I agree with your identification on one issue. The field of adult education suffers and therefore older persons are discriminated against because of certain prevailing personnel practices, and the faculty member who becomes very enthusiastic about the opportunity for service in this area and the opportunity of opening up new opportunities to older persons is not going to get very much credit for that enthusiasm, typically, when the question of tenure is out as far as he's concerned or the question of promotion is out. I have sat through committee meetings a good many times and I know what you're sayings is correct. That does have the end result of discriminating against adult older persons, because it denies them time and again the services of persons who are best equipped to help them move toward second or third careers. There is no doubt at all that basically adult education has been the stepchild of the educational community. There are exceptions to that. That is a generalization. But that is certainly one of our basic problems, and I feel that education with this act passed, that institutions that receive support in whole or in part from the Federal Government are going to have to take a look at the policies of that kind, because you cannot escape the fact that the end result is to discriminate against the older person, in terms of denying that older person access to those who are in the best position to handle that.

Dr. Massey. It also works in reverse. I know the focus is on the older student, etc., but there's a tremendous amount of discrimination within the universities against young faculty, for example, who might be interested in working with these programs, that are not only not rewarded but actually punished by the system as it presently exists, and it will continue to do so unless a program is set up specifically where the focus is in this area. The focus is on children. There's another area there where younger people within the community are ignored who might be helped. So discrimination is also against the younger people.

Chairman Flemming. Let me say that I'm very encouraged by the child health associate program, and I would hope that there would be a comparable geriatric program, and I would also express the conviction, as Commissioner Freeman has, that programs of this kind do provide us with an opportunity for conducting an outreach program designed to attract older persons to the program. I agree with you. I believe that many younger persons would render a very, very effective service, but if we do it we do add to the opportunity for involvement on the part of older persons and to some degree they understand the world in the geriatric area. They understand the world of the older person and many times can relate to the members of their own peer group more effectively.

This has been very helpful and very effective, as far as we're concerned. We deeply appreciate your giving us this time and trying to think through the implications of the assignment that Congress has given us.

Ms Gerebenics. If any one of you have any documents or papers, please hand them to the clerk. Thank you.

TESTIMONY OF GUARDIE BANISTER, EQUAL OPPORTUNITY SPECIALIST, OFFICE OF INVESTIGATION AND COMPLIANCE, U.S. DEPARTMENT OF LABOR, DENVER; BETTYE CHEADLE; MARTIN E. FLAHIVE, SENIOR POLICY ANALYST,

CITY AND COUNTY OF DENVER; MARTHA WADSWORTH, SUPERVISOR, SOUTHWEST YOUTH EMPLOYMENT SERVICE, DENVER

[Gaurdie Banister, Bettye Cheadle, Martin E. Flahive, and Martha Wadsworth were sworn.]

MR. DORSEY. Would you please state your full name and your position and organization for the record?

MS. CHEADLE. My name is Bettye Cheadle. The research I was asked to testify concerning is research that was completed June 1977. I am currently unemployed. The research was under the Commission on the Status of Women.

MS. WADSWORTH. Martha Wadsworth. I work for the Southwest Youth Employment Service. I am the supervisor of that program.

MR. BANISTER. An equal employment opportunity specialist with the Office of Investigation and Compliance, CETA of the Department of Labor.

MR. FLAHIVE. Martin E. Flahive, senior policy analyst for the city and county of Denver.

MR. DORSEY. Ms. Cheadle, you participated in a study on CETA as it affects the needs of women. I wonder if you could describe for us the program you are involved in and also the agency under which it operated or was funded and some of the findings that you have relative to potential or actual discrimination against women.

MS. CHEADLE. First of all, the research was a research project that was awarded for monies in the Governor's 4 percent discretionary funds. It was awarded to the commission on the status of women, which is now the commission on women. It was a research project that was to look at how CETA problems in the State of Colorado affect women. Seven sites were chosen for independent study. It was a qualitative study. It was not a statistical quantitative study, so I have no findings that are statistically important. The research was conducted primarily by personal interview and just to get a sense of what the clients, or participants if you will, felt had been the effect of CETA on their lives.

MR. DORSEY. In doing that study did you determine there were, in fact, instances of different treatment for women at different age levels?

MS. CHEADLE. We did not look at that specifically. That was not one of the questions we were asking. We were not seeking information of that sort, so the findings that we have do not point to that specifically. We did find that most of the programs had either a component to look at displaced homemakers or older workers. That would indicate to us that, yes, there was an age difference that could be made in service to clients. We found that most of the women that we talked to who had multiproblems, such as transportation, child care, health and child care, were 35-plus. It seemed that as age increased, problems increased. There seemed to be a greater difficulty in being served through CETA programs. This was the impression we gained from talking with clients who were either currently in programs or had been participants in programs. One of the insights we got from speaking with the staff members was that cost per placement is a very real concern in the programs, so we were concerned with helping as many people as we could for the dollars they had to work with. This would create an additional problem. The more problems the client had, the more difficult to work with, so that client did not always seem to receive the same service as clients with those problems.

Mr. Dorsey. One of the categories of workers, or actually nonworkers, that has received considerable attention and which is a source of considerable concern to many people are those that are classified as discouraged workers, persons who are, in fact, willing to work and looking for work, but who by virtue of the number and extensive unsatisfactory responses in terms of their search have become discouraged. Did you note in your travels in regard to the CETA program that this was true of women that you encountered?

Ms. Cheadle. It was true of many women we talked to. Some women approached CETA programs a number of times and because of their problems they would not receive supportive service when they enrolled in the program, so they could not afford to remain in the program because it would not be great enough to take care of their needs. In some instances welfare was a better option than to try to stick in CETA. We talked to women whose own perception was that they, because of their age, would not be accepted into programs, so they did not pursue it. That is not to say that the program would not have served them, but they did not remain in the program so they did not receive service.

Mr. Dorsey. In terms of following through, did you have the opportunity to speak with any persons who have gotten sufficiently through the system that they encountered the actual issue of placement to note whether or not there seemed to be some difficulty in terms of either public service employment or private employment—of specific difficulty related to women being placed in the job market?

Ms. Cheadle. We talked with employers in our research and some employers made statements concerning workers, such as, I would rather have an older woman—meaning 35 to 40-plus. I assume they didn't specify what age with three or four children because she has to come to work. They would not have the same kinds of concerns as they would have. This is my assumption. If the person did not have so many problems that they could afford not to take the first job that was offered to them, they could afford to shop around.

Mr. Dorsey. Did you encounter any persons that were particularly resistant to hiring women as a category?

Ms. Cheadle. Yes.

Mr. Dorsey. I would like to move to Ms. Wadsworth. Your work has been specifically related to youth employment services. I ask you if, in connection with that, you have found discrimination on the basis of age?

Ms. **Wadsworth**. Yes. In my work I have found discrimination on the basis of age. We deal with clients in our project from 12 to 18, and basically we are to find employment for them in the public sector or in the private sector. We have found in working within the private and public sector that youth are discriminated against because of their age, factors being that many employers do not want to take the risk of hiring a young person, if they can find somebody older and more reliable, and not willing to take the time to train, they will go ahead and hire someone else versus the youth.

Mr. **Dorsey**. Are there any other instances of discrimination in various programs? For example, have you noted any administrative or perceptions or attitudes which might impair a youth's opportunity to get employment?

Ms. **Wadsworth**. We specifically had a case with the WIN program in trying to work with a youth in negotiating a place within WIN program, a federally-funded program. His mother was receiving from ADC, would be cut back. Therefore, we didn't feel it was worth us pursuing that and felt in some ways it was discrimination against that individual in getting a job. It would cause a burden on the family and cause frustration in the family if he went to work. Her money from ADC would be cut back.

Mr. **Dorsey**. Are there any particular requirements in terms of employability which tend to operate disproportionately against the young people you have known?

Ms. **Wadsworth**. Yes.

Mr. **Dorsey**. Any particular job requirements that have been particularly raised?

Ms. **Wadsworth**. I think so. Within the programs that we access, a lot of Federal public programs locally to place youth in, and I think that under CETA and manpower programs there are requirements that are in a lot of ways not realistic and a lot of times are not monitored to see if the youth are meeting these requirements, such as age being a factor. Programs are basically set up through the summertime for kids 14 to 17 years old, so if a youth is 18 years old he cannot get access to summer employment. They are not looked at as far as when they are ready to access those jobs. So they are going to be ready to move into those jobs?

Mr. **Dorsey**. You work specifically also with that summer youth program?

Ms. **Wadsworth**. Yes.

Mr. **Dorsey**. I think you indicated earlier in discussions with staff some of your concerns about limitations and funding and duration, and I wonder if you might speak on that.

Ms. **Wadsworth**. In Denver, I am not sure on the national basis, but I know in Denver that the Federal monies come in for summer manpower programs for a 3-month period. The way they are administered is through the school system and this may be part of the problem because youth are selected through the school systems. Only a small portion go to communities program such as ours to access youth that live in the community that can meet the requirements. Therefore, the jobs are set up so the kids are there 3 months and at the end of that period of time, there is no further work with the youth as far as job development, findings, and accessing jobs during the school years, finding employment so they can get into the mainstream of employment and open up this opportunity for youth in the next summer. We have found in working with kids they get very, very sophisticated in finding out about CETA programs and access those jobs every summer. They go out and get into manpower jobs, therefore not allowing any other kids to come into the flow of being able to get some training for the summer and access a job and go on to some meaningful employment somewhere else.

Mr. Dorsey. The predominant number of summer jobs go to school-referred individuals?

Ms. Wadsworth. Yes.

Mr. Dorsey. That suggests that the community youth in the same age group, which may have dropped out or discontinued their education for a number of reasons, would not have the same access, not because the program denied access, but because the program relies heavily on school referrals. In your experience does that tend to impact more directly on minorities than it would the entire community?

Ms. Wadsworth. Yes, I think it does very much.

Mr. Dorsey. Do you have any sense of some of the basic reasons for the resistance by employers or by a program administrator to dealing with the youth? In other words, are there any attitudes about work experience of youth which impacts in their employability?

Ms. Wadsworth. No, I think it is just advantageous in some ways for employers to work, at least the impression I have found, to work with older people rather than to work with younger people, because there are factors that you do have to take some means of putting some time and effort into doing some training for you. I have found that in administering the programs that are administered, in administering those programs you then have to do some things around training of youth, and it takes time and effort to do those kinds of things. This is the attitudes I seemed to have found.

Mr. Dorsey. Mr. Banister, in terms of your experience in dealing with public service employment and in terms of your responsibilities professionally, can you indicate whether or not you have found, in your experience, age discrimination and the kinds of age discrimination, and I wish, if you would, to add to that aspect age discrimination, whatever indications of what might be referred to as double jeopardy—age plus minority status or age plus sex—and how that impinges on employability, generally, and the acutal operation of CETA programs that you are aware of.

Mr. Banister. I think if you consider the specific target groups that supposedly the CETA funds are to be directed toward, that they are in some kind [of] employment trouble to begin with, and if you add any of the factors that you have talked about, if you add sex or race or age or even political belief, if you add any of those it becomes kind of a piggyback situation. Age in particular, it seems to me, gets to be a kind of barrier that really needs to be addressed, when we begin to talk about the number of dollars being put into public service programs that are being directed to public agencies. If there is anyone that has got biased against the age, it seems those agencies have got some, and they have all kinds of theories as to why they don't want to hire the older worker. My most vivid one has to do with a chief of police. When informed in 1974 that city, county, and State governments had been added to the age discrimination and they could no longer advertise for patrolmen between the ages of 22 and 26, they informed me they didn't want the older worker because an older worker might not have an opportunity to take advantage of benfits, the retirement after 20 years. If I applied at 46 of age, I would not be able to draw a pension and why would I want to be a policeman.

That kind of logic makes suspect of those individuals we are directing funds to assist, it seems to me, and we monitor affirmative action plans and adhere to all civil rights laws through all programs funded through CETA. There is a lot of education that needs to be provided these people receiving those funds on nondiscrimination and why they should not have those kind of exceptions or those kinds of attitudes. It's not so.

Mr. Dorsey. You have indicated by one example how older persons can fare in employment situations, but in terms of your experience how well do they fare with public employment services such as State employment security administrations or those kinds of agencies?

Mr. Banister. I have been with the Department of Labor since April. Prior to that I was the equal opportunity employment officer for the Wyoming Employment Commission. It really does not matter how you evaluate job service and service to applicants. If you break the applicant groups down, it almost universally comes out that the older worker receives less service. It is certainly true that they are not in a large proportion to the number of applicants available, but in their proportionate share they come out as being less. I think that no matter which manager you talk to or whoever you talk to in the area of providing service to the applicant, they can give you about 15 excuses as to why that occurs. It just has been my experience in monitoring any office, I have found that in service to applicants that the older worker has less service. Then you have the other group things and find out the older worker, if you talk about women, can determine whether it is minorities or nonminorities, women educated or noneducated, whatever. You have those factors begin to bear on who receives those services. Not only do employers have attitudes towards those groups, but staff have attitudes to those groups.

Mr. Dorsey. Do you find that the mandatory retirement policies of some employers have an effect on administration of CETA programs?

Mr. Banister. Yes. I think the personnel policies of those people have the effect, because I don't think they really understand CETA. I think most individuals view the CETA programs as providing public service employees, let's say, with whatever needs they might have or whatever vacancies they have. That is not really the purpose of the program. The purpose of the program is take those individuals who need jobs and have skilled knowledge and ability and place them with the agencies. You are not to wait until the city of Denver has an opening to place a CETA person. You find the CETA person who has a need for work and go to Denver city and say, we have an individual. Somehow we have not communicated the real purpose of CETA.

Mr. Dorsey. Mr. Flahive, the data that we have gathered in the course of field work shows that the majority of participants in the CETA training and public service employment program is between the ages of 22 and 34. I want to know from your information if this is true for this particular area?

Mr. Flahive. Let me first qualify my remarks. I am no longer in the field of manpower. I had done some writing and panel work within the NCOA 2 years ago on the subject, and apparently it was thought my views still had some currency. I am not prepared to tell you the characteristics of the CETA participants here in Denver or the region. I believe the mayor and/or one of his assistants is going to testify or already has perhaps. I would prefer to defer to them because they have more current data. I have some views on what might cause that to occur. They are the same views I expressed in some cases 2 years ago.

Mr. Dorsey. Let me ask you one question in terms of your former position. Would you have been relating to this particular job employment relationship?

Mr. Flahive. Yes.

Mr. Dorsey. So in terms of when you held the job, can you give us some indication as to, at that time, whether or not the concentration of employment would have been in that age group?

Mr. Flahive. Yes. I think I can say it was the younger group. If you would like me to go into the reasons I think that the reasons may be self-evident, but first, I want to point out that is not entirely not to be expected. That is, at least, by some people's numbers the largest group of unemployed; to the extent they are the largest group, they should also be the largest group in the CETA program, but to the extent that group is disproportionately represented in the CETA program, I think there are reasons for it. I don't think it is conscious discrimination on the part of the programmers. This is based not only in having dealt with programmers in the country, and having dealt with Denver people and around the country, and their admission they don't feel there is a bad heart involved—I don't think there is a conscious discrimination in the programs against older workers. However, one of the causes, I think, of these apparent disproportionate services of the youth is national in nature, and that is the Department of Labor and Bureau of Labor Statistics tend to characterize the problem as a youth problem. Unemployment is a youth problem. If you see statistics on the news, they are how many people are employed, unemployed generally, and of that, how many of them are youths. To the extent, some of that is correct. Some is biased, in part, by the nature of the unemployment statistics.

You mentioned the issue of the discouraged worker. That is going to be biased and probably if we knew it, one discouraged worker group would be shown to be a greater proportion of older people, but to the extent the unemployment problem is characterized, the national level is a youth problem, it is natural that programming people watching—are going to communicate this view also. There is a widespread and unconscious sensitivity to the special problems of the older worker—I don't think they are going to go away. I think you are going to have some sort of aggressive intervention in the prevailing thought processes on manpower programming and including program designs and staffing patterns. I do know from recent consultation for the people working in here in Denver, they have a Title III and Title I older workers effort, but that was a local choice. It is my understanding, there is no program national priority in manpower programming for older workers except a very small amount of money that comes through Title III. In any event, that does not appear to be significant in the priorities for older workers. The final point is the issue of salary level. This is only a recent realization on my part. It is not something I was aware of back when I was in the business. A public service employment title, as I understand them, limits salary to $10,000 a year. You are permitted, or a local government is permitted, to supplement that $10,000 with additional money. The priority does usually go to creating positions that can be filled within a $10,000 limit, so as not to overburden the general fund in the creation of those new positions.

In preparation for this hearing, I took a look at the classifications that are most likely to be created as a result of public service titles. This will be further aggravated by virtue of the large sums of money going into the public service national title. I found them falling into three categories, low status, dead end, and/or heavy labor jobs; entry level clerical jobs; and three selected exceptions. I will have to refer to the first low status, dead end, and/or heavy labor jobs. I suppose the title is fairly self-evident in the fact they are low status. They may deter a person who has worked a lifetime in responsible, meaningful, and reasonably prestigious endeavors from going to that work. They are dead-end jobs. I will give you some examples in a moment. They offer little chance of advancement to, or regaining responsible and well-paying work. Three, they entail in many cases considerable physical exertion. That has two characteristics. One, the older worker may not be able to do such work. Second, even if the older worker can do it, the likelihood of discrimination by the interviewer in favor of a young muscular kid is significant. Since the older worker is not characterized as having the ability, it may have that effect whether he is qualified or not.

Now, I have used the city of Denver's carrier service pay plan as an example. It was developed, based on national surveys, so I suspect it is representative of the situation in other prime sponsored areas. Dead-end jobs, auto parts clerk, car washer, custodial worker, garage attendant, guard, lifeguard, pool attendant, parking enforcement clerk—in common terms, parking meter collector—school crossing guard, seasonal laborer, usher. Now, I suppose that does not take much further explanation on that. That is the odd jobs you get. They are dead end.

Entry level clerical jobs—it is not as devastating to the fact that at least these may lead to higher clerical jobs, but very few older workers are trained. Very few men are trained or disposed to clerical work. We can argue on the sociology of that. Those positions are filled by women. Even women prepared have to compete with people coming out of business schools and high school with skills that are fairly current, and in many cases the older worker is returning to the job force, having left it to raise a family or whatever and that the competition may be too severe for that person to break back into the labor force in those lower paying jobs. Examples of that clerical group—

Mr. Dorsey. Let me interrupt for a second. I notice that you have a document which I assume is the substance of what you have found.

Mr. Flahive. I am going to provide copies for you.

Mr. Dorsey. I wonder if, since we will be able to have that for the record, if you could summarize for this.

Mr. Flahive. I am virtually done anyway. It will take a moment. I have an list of various clerical positions, but they are ones that would not take an imagination to come up with. The only exception about this comment about salaries being a deterent to older workers are things like graphic artists, job coach, laboratory assistant, press operator. There are exceptions that generally speaking salary limits permit only certain jobs to be created. That those jobs are not only the kind that a person with meaningful work experience and perhaps the responsibility of a family can afford to or will choose to take.

Mr. Dorsey. No further questions.

Commissioner Freeman. We have been hearing testimony from health providers, from yesterday, about the fact they were pressed with inadequate staff. As I listened to your testimony, I wonder if somehow there could be a matching—that if there is a need for certain kinds of positions, that could not those and if they are public mental health clinics or, say, funded, that certainly they might be eligible for the CETA program. That if there could not be some sort of matching to match the training for where the job is, and I presume that kind of position or those kinds of positions would not be dead end. I wonder if any consideration has been given to more coordination. I would ask that of either you, Mr. Banister or Mr. Flahive.

Mr. Flahive. Just one comment. One deterrent to that is that many of the kinds of opportunities that you are referring to involve, essentially, creating a skilled person for the labor force that—in practice, I believe, labor and unemployment training programs tend to work primarily with creating low-skilled positions. The reason for that is there is the dollar limitation. People are concerned about cost per placement, I believe the first panelist mentioned. You should not underestimate the power that creates, that if you were going to try and create a long-term training program that moved people in those higher skilled positions, I think you would have to break it off and give some special reward for participating in such a program. It is not going to happen even though the jobs are there.

Ms. Cheadle. I'd like to respond to that. In one of the programs that we looked at there was evidence there was good community involvement in the CETA program. One thing your question brought to mind was, a woman's clinic was created and staffed with CETA participants for *X* amount of months. At that time the clinic would be expected to find other monies for support. It did generate and create some new kinds of things that were not available in the community before.

Commissioner Freeman. So it does have the potential. There is nothing in the law that would prevent it?

Ms. Cheadle. Obviously not.

Mr. Banister. I was recently at a meeting in Washington. We were talking with CETA people who were saying there were going to be special funds directed toward the CETA program for long-range professional types of training. I think with a statement like that, that almost highlights what the present funds are directed toward today. What I am saying is, I think your concept is being evaluated and put into practice, but as it is being funded now, I really don't think that is the intent. The intent is for short term.

Ms. Freeman. So maybe we need to wait until we get to Washington and bring in the Secretary of Labor.

Ms. Cheadle. I think so.

Chairman Flemming. As you know, the law under which we are holding this hearing excludes from our jurisdiction, so to speak, the employment issue generally. However, it specifically directs us to take a look at CETA, and the kind of testimony that you have provided has identified issues that we certainly will want to raise with those who have the overall responsibility for CETA and will help us a great deal in making findings and recommendations in this very important area. Your testimony comes out of some very of meaningful experiences in the area. We appreciate your willingness to be here with us and to share those experiences and those insights with us. We are grateful to you. Thank you.

TESTIMONY OF LAWRENCE BOROM, EXECUTIVE DIRECTOR, URBAN LEAGUE OF COLORADO; DAVID DUNCAN, REGIONAL ADMINISTRATOR, EMPLOYMENT AND TRAINING ADMINISTRATION, U.S. DEPARTMENT OF LABOR; JUAN MCALISTER, ACTING ADMINISTRATOR, DENVER MANPOWER; ARMANDO QUIROZ, EXECUTIVE DIRECTOR, CETA SPECIAL GRANT TO THE GOVERNOR, COLORADO

[Lawrence Borom, David Duncan, Juan McAlister, and Armando Quiroz were sworn.]

Mr. Dorsey. I would ask each of you to state your full name and title for the record, please.

Mr. Duncan. David Duncan, Acting Regional Administrator, Employment and Training Administration, Department of Labor.

Mr. Borom. Lawrence Borom, executive director of the Urban League of Colorado.

Mr. Quiroz. Armando Quiroz, executive director of the CETA special grant to the Governor.

Mr. McAlister. Juan McAlister, acting administrator of Denver Manpower System.

Mr. Quiroz. Since I take usually a very preferential view, I might add it is the Governor of Colorado.

Mr. Dorsey. Mr. McAlister, I wonder if you could respond? Do you believe that there is age discrimination, intentional or unintentional, in either the Title I or Title II or Title VI public service employment programs?

Mr. McAlister. I don't think it exists inherent either in the law or in the act. Possible in the administration there might have been some concern as to what age groups should or should not be served. Speaking for the city and county of Denver, when we put together our 1977 fiscal—1977 target groups, our advisory council went through very exhaustive research and a very elaborate process, which I will provide, once we have concluded in determining what the age groups we should, in fact, be serving. That was taking into consideration that the greatest need, the greatest number of individuals in that area, and the special attention paid to the older worker.

Mr. Dorsey. In terms of that process and that result, your information indicates that, for example, in Title I the client characteristics for the Denver area would indicate a very, very low enrollment rate for ages, for example, 45 and up and in, for example, Title II, the same thing is true for the same age group. In addition, in Title II you have a fairly small percentage of enrollment by your 18 category. The Title VI the same thing is true for that same age group. Now, in terms of that experience, that client characteristic experience, what kinds of activities are you engaging in to increase the kind of activity that older persons will be involved in, in terms of those particular titles?

Mr. McAlister. Again, let's start with Title II and VI. By way of background, the way Title VI has been interpreted within the city and county of Denver is basically providing opportunity for employment within the public sector, which carries with it the directive that we go by the City and County of Denver's Career Service Authority. They are the ones who provide us with the potential openings. We attempt to match public service clients to those particular openings. I think that Mr. Flahive pointed out quite often those are in the entry level and clerical kinds of jobs, which in and of themselves would say you don't have a lot of older workers or a lot of younger workers interested in that kind of position.

Mr. Dorsey. In that regard we just heard testimony, which you might have heard yourself a short while ago, from Mr. Banister which indicated that perhaps that approach may not be consistent with the intent of the statute insofar as—perhaps if the emphasis was not so much in filling existing vacancies, but rather in meeting the employment needs of those who are currently unemployed and covered by CETA, that the statistics would thereby show that shift in philosophy and thereby improve the participation of older persons. Do you have some comments on that?

Mr. McAlister. I guess what we have attempted to do under Title VI is to maybe address that problem in some measure; through the employment service, intake mechanisms we have been utilizing the kind of individuals that they bring in, attempting to match that to the jobs that exist. There are no statistics available, but I think we have been fairly successful in taking a cross section of those unemployed persons, and I would assume that they are representative of the total problem within the city and county of Denver and addressing that through the public service employment program, I think that that probably comes a little closer to getting at what the previous testimony was indicating is a problem.

Mr. Dorsey. Mr. Quiroz, as the director of the Governor's special grants program, I assume, by your information, it directs itself specifically to those areas by which the Governor and the Governor's staff determine to require intensive activity in terms of high unemployment and low employment potential and in terms of isolating those groups that fit that category. I wonder if you would indicate the process of targeting and the result of that process?

Mr. Quiroz. What we have attempted to do is to use our 4 percent discretionary money during fiscal 1977 to address some of the unemployment problems that are not otherwise addressed to the regular CETA program and that would include the balance of the State CETA programs administered by the Governor.

We don't think there is a conscious deliberate effort to discriminate against youth or the older worker. We do think there are a number of factors that cause the older worker to be less represented in the regular CETA program and that those factors are the reason for our emphasis, through the special grant, to address the problems of the older worker. Some of the factors, for example, are that, number one, Colorado has a very young population, so that you don't have some of the problems that you might have with the older worker in some innercore cities. The question of the type of job was addressed earlier during the other panel discussion, and that certainly is a factor; you do have an emphasis on the entry level, unskilled jobs. That is a factor in taking that population between 22 and 44. Your statistics were correct. That is the major group that is addressed through the regular CETA program, that age group between 22 and 44. It is not only something characteristic of the program in Denver but in Colorado. I dare say probably characteristic of the program throughout the region if not the country.

Another reason for this deemphasis, perhaps, of the older worker and of youth other than through Title III is the counter-cyclical nature of the CETA program. Originally intended through Title I to serve the structurally unemployed, long-time unemployed, disadvantaged, and special groups, it has throughout the country become a counter-cyclical program dealing with temporary unemployed and disruptions caused by the economic recession so that emphasis—and it's not only the emphasis of the older administration, but if we look at some of the new programs coming around the corner, including the new youth program—that emphasis causes the CETA program to again look at the population that is temporarily disrupted and will go back into the labor force once the economic recession fades. That population is that 22 to 44. Industry will pick up on that age group and put them to work once the recession fades, but it won't on the older worker.

Another factor, not characteristic of Colorado but characteristic of some city programs, particularly in Title VI, is the emphasis in civil service employment in Title VI. That is that many major cities will take Title VI, a portion of that program, and use the dollars to employ laid off civil servants. The laid off civil servant that goes into CETA is necessarily the younger civil servant because they are the first to go and the first to go in the CETA program. Those people who have seniority remain in the civil service system, so that picking up the younger civil servant closes the Title VI population.

In brief, what we have attempted to do this fiscal year through our special grant is to use our money to look at both the question of unemployment among youth and the older worker. We have taken a program in Denver and collaborated with Mr. McAlister and his staff on a program in Denver for the older worker, the population 55 and older, and we have established a program here on a more limited basis in a nonprivate, nonprofit organization called Seniors. That is for the older unemployed, 55 and older.

We have some model youth programs we have established in Colorado Springs, Urban League of Colorado Springs, and also a rural employment. One of the problems I would also add, Mr. Dorsey and Mr. Flemming and Ms. Freeman, is we have a tendency to look at the special programs as taking care of needs of the structurally unemployed, such as Title IX. Title IX lumps something like a million dollars in Colorado through Green Thumb and the Department of Interior and the Office of the Governor. But it tends to be viewed as a panacea for the old worker and we include ourselves as the means or the vehicle on which to pick up the older worker, just as, unfortunately, the summer youth employment program, Title III of CETA, is seen as a vehicle to pick up the unemployment problems of the youth during the limited period of time through the summer, and the rest of the year we forget that there is a very, very strong, very, very high structural unemployment problem among youth and, hopefully, in our interest in age discrimination, hopefully, the new youth legislation pending will somehow address the problem of, particularly, minority youth. They are unemployed in the major urban areas.

It might not be relevant to discussion here, but I hope that is one thing that the Commission will look at, since what is really needed there is to address the problems of those youths who are structurally unemployed and who have a very low educational level, come from broken homes, would live in the ghetto areas, and, simply put, a program of very limited exposure to a rural setting—a program of community beautification—is not going to do the trick. What is needed there is a greater emphasis on supportive services. Some reemphasis on the involvement of community-based organizations able to work with those youth and, hopefully, the Commission will provide some insight to the Department of Labor on that.

Mr. Dorsey. Mr. Borom, picking up, if you will, from the last statement of Mr. Quiroz, specifically as related to the added burden on minorities and various employment problems as the economy shifts and also noting your experience in dealing with CETA, can you indicate your feelings about age discrimination and as it is increased by minority discrimination, discrimination against women.

Mr. Borom. The first statement has to be that the continuation of discrimination against blacks and other minority workers is so pervasive that when you start looking at the problem of younger or older workers, those problems are kind of submerged into the whole problem of discrimination of color, ethnic background. What we see in the special programs we operate, our LEAP project and our local CETA fund project, and what we see is the continued difficulty at placing people at whatever age group in jobs in the private industry in Denver. I think my experience has been in primarily two places, two local States, St. Paul and Denver. I think Denver, marked by lack of affirmative action programs, which mitigates against the successes of blacks and other minority workers on the one hand and particularly those people who are more disadvantaged because they are older or younger, as an example. We have found few responsive kinds of industries or of responsive groups of employers in the Denver area, in terms of hiring the older black worker or in terms of hiring the younger black worker, so that is a general kind of problem that persists.

I think, in terms of trying to solve the problems of age discrimination, we will have to deal with the problems of racial, ethnic discrimination as one of the first things of priority. We have seen there are some barriers in the programs themselves. As an example, our LEAP project is set up to recruit minority youth for the building trade, building and construction trade, and that program in order to be successful helps people match the qualifications that are required for entry into the principal trade.

As you know, there are strong age limitations at both ends of the spectrum of workers, in terms of the building trade generally. I see, for instance, while we have the capability to place older workers in the building trade if they have building and trade experience, they can get advanced journeymen training programs for the older worker. For the older worker who has no building trade experience, that person has a very small chance of getting into the program. Of course, people under 18 would also have little chance of getting into a principal trade program.

Now, in Colorado there is an effort being made to get an opening up of some of these qualifications to deal with some of those problems, particularly for the older worker, for the older minority worker who wants to get into the construction industry because there is a statewide affirmative action agreement that has been agreed on by the contractors, by the unions, and by various community-based organizations that provide people to this industry. This program is a very new one. We are not able at this point, it seems, to adequately assess how that will affect the entry into the construction industry for the older worker or for the younger worker. The barriers, in terms of the kind of age barriers, in the construction industry does mitigate against full opportunity for everybody, regardless of age in terms of that particular national well-funded program.

As far as the CETA program is concerned, I think there are some problems that are associated with the way that is structured in local communities. As an example, we are funded to place people in a variety of age groups, primarily the middle-aged groups or those over 21 and under 40, in employment. We are an indirect placement programs so that we are placing people into subsidized kinds of positions, first after they are trained and they are sent back to us for direct placement. Of course, one of the problems is that the agencies that we deal with, in some cases, may or may not have openings for people in a certain age bracket. As an example, one of the places that we may refer a person for training may have a quota, and basically what we are dealing with in Denver is the whole problem of trying to set up some artificial sort of numbers groups that need the most service.

As Juan McAlister indicated, they have put together a kind of elaborate scheme as to what group of workers are most underserved. We may have, for instance, 35 percent of the slots that we have available for indirect placement going to workers under 21, but what that means is that the youngster who may be under 21, who may want employment, he may not be able to find a slot that is available because of this kind of age breakdown. That is set up supposedly to help emphasize the special need of workers. On the other hand, I think it works towards the disadvantage of some workers.

I am suggesting as an example that programs, like community-based organizations like the Urban League, should be comprehensive programs, even though we have some general guidelines in terms of the kind of age groups that need the most help. That someone from the neighborhood should be able to work in a job service program and whatever the age group be eligible for enrollment in a program at that position. The whole problem of trying to have specialized agencies that serve the youth, as an example, or serve the older worker, as an example means that many of the resources for serving people in the community are not used for the benefits of those special groups. I am suggesting unless CETA programs are comprehensive that, in fact, workers do find barriers in employment opportunity. I think that is a major area I would want to comment on.

I think that lastly, then, I would like to comment on just the general problem of age discrimination. We in Denver find some particular kinds of problems with that because, for instance, Denver is kind of a haven for retired military people and many black and other minority military people retire in Denver. It is the climate and Federal resources that make it attractive. We have found it difficult to place, either through the CETA program or our general United Way funding program, these people because they are not the 25-year-old or 22-year-old, you know, newly graduated high school or college graduate. Those are people who have in some cases very extensive experience and education, but they are 45- to 48-years-old and perhaps minorities, so they have double barriers to employment. We see a considerable degree of age discrimination that goes on in the private sector even though it is not announced, obviously. It is not overtly announced, "you are too old to come to work for us," but the kind of responses we get to candidates that we are referring to various employers indicate to us that those employers have drawn specific kinds of lines as to the age of workers that they are looking for, for a position, whatever they say about it.

Mr. Dorsey. Mr. Duncan, referring back to the statistics, to which I alluded, that regard Denver, as Mr. Quiroz indicated, are also true for the State at large. Is this reflective of the region, the other States in the region, this kind of underservice, apparent underservice, or at least underparticipation by older persons, is that representative of the region?

Mr. Duncan. Mr. Dorsey, in some respects people argue that you can make figures say whatever you want them to say. In preparation for my comments to the Commissioners and to the staff, I did some analysis and I have a prepared statement which attempts to answer two questions, I might add, that I felt in discussion with the staff the issue that the Commission wanted to focus pointedly on. One question had to do with what constitutes unreasonable age discrimination, and the other question dealt with what kind of processes or procedures need to be implemented to ensure that the provisions of the Age Discrimination Act are, in fact, implemented.

To specifically answer your question and at the same time get at the part of the material that I will be leaving with you, we at present must admit that our existing data bases leave much to be desired to make assumptions on many, many things relative to equity of service and equity of access. The data on the surface relative to services to persons over 40 years of age would suggest a percentage of participation that was disproportionate or low. One suggestion that I have to make is that employment in training programs are designed to move, to the maximum degree possible and feasible, under and unemployed people, across the board, into the work force. The only data base that we have available now that, in my judgment, is relatively sound and regularly updated is the unemployment insurance data base operated by the employment security system. It's an acronym (ESARS) so far as it stands for employment security automated reporting security system.

Chairman Flemming. I wonder if I can interrupt you. I have to leave about an hour and a half earlier than I intended to leave, and I want to express to members of the panel whose testimony I have heard, I personally appreciate for the insight you have provided us. I am delighted you have a prepared statement and I look forward to reading it, Mr. Duncan, because of your overview of the total situation. Commissioner Freeman will complete the hearing. In addition to this panel, there are one or two persons who have asked to make presentations. I just don't want to walk out without expressing my appreciation for the contributions you have made and saying again that I look forward to reading your document, because these issues are certainly very, very relevant to helping this Commission in terms of developing findings and recommendations. I apologize for the interruption.

Mr. Duncan. To get back to the VI data base. With the recent changes in the unemployment insurance law, we now would in that ESARS as data base in my judgment have almost 100 percent coverage of the people in this country that are seeking employment. I say that for two reasons. We start out with a base VI program that operates for 26 weeks, an extended benefits program can trigger on for another 13-week, and then we have another 13-week program funded under the supplemental benefits program, Federal supplemental benefits program. For all of those people not covered by the regular programs, there is the supplemental unemployment insurance assistance program. For those persons who are receiving benefits from other programs such as welfare, food stamps, etc., it is necessary for them to register at an employment security office, to be seeking employment, so they can obtain those benefits.

Within that system we have a sizable percentage of the total number of people that are seeking work. I make that point because when we talk about a data base from which we begin our planning, I would suggest the table 8 in the ESARS program employed data particularly relevent to persons concerned with age discrimination because of the age breakouts. I did some analysis on the regional level of comparison of applicants within the total applicants system and came out with a percentage of total applicants and a percentage of those total applicants that were placed, and in comparing those percentages with the percentage of applicants that are over 40 years of age and the percentage of applicants over 40 years of age that are placed, I have a very, very close parallel.

This then says to me that as you look at the spread of people in the unemployed work force, there may be as many reasons for older workers not to be in the unemployed work force, and therefore, not consciously seeking work, as there are arguments that would suggest that there are. The mandatory retirement age in most of our programs—when I say programs now I am thinking about occupational constructural agreements negotiated with management in the private sector or civil service agreement of some sort at States, Federal, or local governmental levels. We have a 65-year-age cutoff with reductions that allow for early retirement or below that, depending on years of service.

You stop and think about the flow of people into the labor force over the last 40 years, and we find that there may be reasons that there are fewer older workers seeking employment as opposed to the assumption that there are a sizable number of older workers that are disenchanted with seeking employment. When I compare that differential and the unemployment insurance statistics with the placement statistics in the CETA program by title, by region, which is an analysis that we do on a quarterly basis, I find that the CETA program has a plus differential on placement which ranges from a plus 3.5 to a minus 1.7 on the three titles as opposed to a minus 2.1 differential, which I talk about in the paper on the employment service side, which leads me to believe that the CETA program, unlike many people would believe who do not look at the statistics, appears to be serving in a higher degree of efficiency persons 40 years or older, which is the category that falls under the Age Discrimination Act.

Now, I would imagine that very definitely when you break that down within the various age categories 40 to 44, 45 to 56, and 56 to 64, and 65 and over, you would have a reduction in participation with increased age, but in looking at the figures I believe that the differential would remain the same. One of the reasons may well be the relationship to some kind of retirement and investment benefit that exists for the individuals as they increase in age, plus the fact that our, while our average age is increasing, it is not increasing at a rate that we do not have a sizable amount of departures from not only the labor force but from the population. In answer to your question, on the one hand there are many reasons which we can postulate on that would suggest that older workers are not receiving the same types of services that other workers are receiving. When we look at raw numbers and relate them to ratios, we see that on balance, while we cannot talk about the quality of the service that is being provided, the aggregate shows essentially a balanced level of service in relation to the numbers, if that service is considered to be placement in jobs.

I would like to comment, while I am talking with you, about one other point in relation to employment in training programs. I think the philosophy of the employment and training program developers in relation to Commissioner Freeman's statement about longer skilled or longer level skilled training is that ETA has a responsibility of putting people on a job with a limited amount of money, and their philosophy then is to place people on the job tree to the maximum degree feasible at the most effective cost-benefit ratio, giving them the option, then, once they are on the tree, to move up or laterally or even down that tree while they are on it, recognizing that movement within the labor market or, in this illustration, on the job tree results in some payment by the individual in one form or another. The payment may be additional education. The payment may be time away from the family. The deciding is not on either of those. Therefore, take a lesser job. The payment may be less time at a job; therefore, accepting part-time employment so that there is more free time for the individual. These and very many other options present themselves to people entering the labor force, and particularly older workers who have some semblance of support other than their wages.

Mr. Dorsey. Is it your opinion, and you raised many issues—First of all, by making the comparison between the success, if you will, of CETA as compared to the success, if you will, of public, the State employment service, then you are making necessarily a comparison, one, with a program specifically targeted to meet a clear need, namely, high unemployment and a recovering economy around the corner, with an organization, State facility, which if it were successful would have eliminated the very need that CETA seeks to serve.

Mr. Duncan. I disagree completely. Let me explain my perception of the fallacy of that rationale. The employment security system in this country, and particularly the employment service, functions primarily as a labor exchange. The purpose of that labor exchange is to basically take job-ready people and with a minimum amount of contact match them with the jobs that have been solicited from the employing community, so that the economy can continue to function in an efficient, effective, and productive way. Therefore, the key here is the fact that we are dealing with job-ready people in the labor exchange function. Therefore, is one in which you have a high volume, low-cost, service delivery system, primarily because you are dealing with job-ready people. When we talk about the CETA delivery system, we, in my judgment, according to the purpose of the legislation and in the intent established in the regulations, we are dealing with an individual delivery system for which the job-ready system, the job labor exchange system, cannot provide services to until they are maybe job ready. Therefore, the individual delivery system is characterized by low volume, by high cost, in comparison to the other, and the ultimate aim is to provide those necessary types of assistance to enable people who are not readily assimulated into the job market, into the job market.

Now, to support the concept that ETA is basically concerned with the job tree, I must use for illustrative purposes the fact that right now when we talk about the public service employment program, we have an unemployment level in this country of over 7 million people, and when the expansion, the stimulus effort is culminated in 1978, at the present planning level, we have 725,000 public service employment positions at a sizable cost to the Federal Government to support those. This mitigates to me the need for prudent assessment in management of service delivery systems to try and provide assistance to the maximum number of people possible.

Employment security agents therefore, in summary, does not duplicate the services of the CETA prime sponsor because it is a labor exchange function. We are diligently trying to provide to the CETA prime sponsors that the most desirable comprehensive labor service system, employment service system, and I am thinking of employment in the generic sense, is to spend resources on these people who are not job ready and in that way eliminate any duplications at all in providing services to people.

Mr. Dorsey. I have no further questions.

Commissioner Freeman. Mr. Duncan, the employment service really is not one that we are studying, so I won't get into my differences with your concept, because I think you make some fundamental assumptions that are the reason why we are not really solving the problem of unemployment and particularly the older Americans. It seems to me that the Department of Labor and the other Federal agencies need to get off of the concept of just a panacea short-range program such as CETA, and get into some long-range development in terms of what the economy requires, what kind of training is required, what the public, what programs are needed to serve all of the people.

Having said that, I will still want to ask each of you to respond to just one question. That is the question that came up yesterday about certain employment, certain jobs that remain unfilled, for which people are not trained and which, even here in Denver, the CETA program is not providing for. Now, each of you has some area in which you can speak to this and further, if you could, at least indicate ways in which perhaps you see the program should be changed. We need to come out of this hearing and the other hearings to follow with recommendations, with regulations, with recommendations for perhaps legislative changes and recommendations for changes in regulations.

Now, I don't think we need to hear any more about the discriminations that exist against not only the older worker but if you happen to be a black female and old, you are really in trouble, or even Chicano or Indian. We know this. We also know that the programs now in existence are not serving them. Now, did you see things that can be done with the programs that you are now administering that should be changed, without giving me the answer that you don't have enough money. I will start with you, Mr. Duncan.

MR. DUNCAN. One of the areas that I mentioned in the paper that you will be getting is that our present reporting process does not really let us know conclusively the degree of success or failure we are having with our programs. This is partially by design and partially by conflict with the forces that are concerned about paper.

COMMISSIONER FREEMAN. Are you in a position to change that?

MR. DUNCAN. No. You are in a position to recommend.

COMMISSIONER FREEMAN. But you work for the Department of Labor. Did you include in your reporting process the displaced homemaker?

MR. DUNCAN. Not now. That is one of the things I am talking about.

COMMISSIONER FREEMAN. What is that would keep you from starting to identify that person tomorrow?

MR. DUNCAN. The Department of Labor as other Federal agencies are mandated on any continuing report to obtain OMB clearance for that report and that report change, and until such time as either regulations promulgating legislation require information specific ways or OMB clearance is obtained—

COMMISSIONER FREEMAN. Can you send a memorandum to OMB that you want changed?

MR. DUNCAN. We have made recommendations for a number of changes in our reporting system to OMB.

COMMISSIONER FREEMAN. To reflect the omission with respect to the displaced homemaker and the female head of the household?

MR. DUNCAN. Not the displaced homemaker yet. Though we are presently at the national level doing quite a bit of analysis to establish a special program to address the needs of displaced homemakers. It is my understanding that the funding source for that program may well be Title III of CETA. That has not been finalized yet, and I therefore have no way of knowing what the final decision will be on that.

COMMISSIONER FREEMAN. Does any of the panel members—do you have any information about that, Mr. Quiroz?

MR. QUIROZ. No. I wanted to comment, Commissioner, in partial response to your question on something that David also addressed. That is the role of the employment service and the CETA program. I believe it is probably not the first and last time we will disagree lightly on some issues. I think that the view that the employment service as principally a labor exchange is somewhat open to question. That is just not the way it has worked. If we look at, for example, the statistics on the older worker participation, either through the employment service or CETA, you will find a striking parallel. The percentage is almost identical. Now, that means, on the one hand, the older worker is not considered perhaps trainable. I want you to consider this in context, please, of what we mentioned earlier.

I think what the panel agrees on is that there are factors uncontrollable that limit the activity that both CETA and the unemployment service can have on behalf of the older worker. That is not factors in the system to control and direct, but when we look at the level of participation in both, it is obvious that the older worker, particularly, may on the one hand be considered not trainable and on the other not considered job ready. He is in effect considered not serviceable by both systems. I think that the ultimate answer, and one that has to be addressed sometime fairly soon, and perhaps the Commission can consider this, is to what extent CETA and the employment service is going to move together and work together, to what extent are they going to be blended at some point into one system. The idea that one is a training program and the other is simply a labor exchange is something that I think has not worked yet, and the ultimate is to force the two systems to become one, to become a comprehensive manpower system, to have the counseling services and the experiences of the employment service be as open and shared with the CETA prime sponsors as the training capability.

I know it is something that is probably a little radical and probably somewhat disruptive to the thinking of those who fear the employment service will lose some of its control, and some CETA sponsors are becoming as provincial as employment service agencies. Ultimately, the marriage has to be there and that marriage has to be further extended to the community-based organizations that have been excluded from both systems. By that, I mean that the organizations that have the pull in the community, as the Urban League and OIC and the others, have to be also part of that system, and where it exists now, let's look at it and see how that can be improved, and where it does not exist, let's say, how can we effect that at some date. It may take long-range planning, but we have to get there.

COMMISSIONER FREEMAN. I think most of you have brought some data. Mr. Duncan, you especially have some data that we would need to have. I want to thank you. I want to thank you for the contribution which you have made to this proceeding and ask as we excuse you if you will leave the reports which you have for the clerk, which will be inserted in the record at this point in the hearing.

The two witnesses may be called, and each of you will be sworn and allowed 5 minutes. We will ask Ms. Bradley if she will be the timekeeper, and just before your 5 minutes are up, she would notify you when you have 1 minute to go.

TESTIMONY OF HELEN LINDGREN

[Helen Lindgren was sworn.]

Mr. Dorsey. Ms. Lindgren, will you proceed?

Ms. Lindgren. I don't know how to start. I have so much to say.

Commissioner Freeman. Ms. Lindgren, you may submit a written statement as well. It will be included in the record. If you have a statement which you want to submit later, you may also do that within 2 weeks. We would be glad to receive it.

Ms. Lindgren. After 83 years of life I have so much to talk about. Yesterday, when the mayor spoke on the mandatory time and discrimination, which I am very strong against and very much would like to talk something about, but I want to speak as a working woman experienced in this discrimination of retirement and having been working since I was in my teens up to age 62 when I voluntarily retired as a protest against mandatory retirement. I was lucky enough to be able to retire. I was healthy and lively and had a little income. I was just going to show them they are not going to tell me when to retire. Later on I will go back to work again. I will just take a few years off. I soon found it was discrimination and not only to stop work, but you can't get work after the Government itself discriminates and says that you at 65 and you had to stop working, you are too old to work.

From then on, you are labeled as an old person unable to work. You can't get a job after that. I mainly want to testify against experiences I have had with coworkers who are less lucky than I, who are not as healthy and not as strong and did not have their financial backing that I had. What it meant to them after a few months, after a few years when I came to those who retired before I did, who came to visit us afterward. We found what it did to them just after years of working and being able, responsible people, they felt they were not worthy of anything. They were old and didn't have the money and didn't want to apply for subsidy and did not want to feel that they were getting handouts and that they were against the Government doing this to them. Those of us who feel certain ways, we can speak out and use our different means we have, but most people don't. They go into their shell and just suffer.

It seems that this is what I am telling you about is in New York. I am a New Yorker. I was a dressmaker. I worked all of those years as a dressmaker, but coming to Denver I experienced the same thing with not so well known people. I used to go to the lunch place where people get lunches for 60 cents or free. I found many of them would put the 60 cents in even though—especially when I went to see how it is. I was told how some of them come there for the main meal and get a sandwich to take home because they have a one-room apartment, and those very same people could have and would have worked because they are able to work, but it is compulsive retirement that does this to them.

Besides, I feel that mandatory retirement not only discriminates, it does not discriminate against all people. It discriminates against the working people, against the poor, because the Government, the people themselves who have made this law are excluded. I think if there must be a mandatory retirement law, it should come from the President down all of the way. Those who make money in investments and other ways, should the poor worker say, "Hey, you give up your job and give it to a young fellow." The Government are people. I don't say older people should work all their lives, but if they have to retire it should be voluntary retirement. I would say many of us are working for a guaranteed national living income by a check and not by handouts. I believe, I have been in many organizations and individuals are working toward a national health insurance so from the time a person is born to the time he dies they have a security. They have a feeling their health is taken care of, that they are not a Government who have all of these sick people. Can I make a bigger statement?

Commissioner Freeman. You may submit the rest of it to the Commission, not today, but you may submit it and the staff will tell you to whom you submit it. Your time is up now. I want to thank you for your time.

TESTIMONY OF LIBBY BORTZ

[Libby Bortz was sworn.]

Ms. Bortz. Thank you for the opportunity to be here. I am a psychiatric social worker for the past 10 years, involved in the delivery of mental health services. In the past 5 years, I have been involved in the attempt delivery of mental health services for the older population. I have been serving for the past 3 years on the Denver Regional Council of Government, Office on Aging Advisory Committee, and believe that I have a broader perspective, certainly much broader perspective. In the county I come from, 50 percent of the population is older, and our mental health center provides service to 1 percent of the senior population. That is typical across the country as a figure. In the past month, that figure has changed as a result of a CETA person on our staff. I would like to say more about that.

I think there are probably four areas that need to be looked at and dealt with if we are to change the delivery of services to our population and include all age groups. The first one relates to attitude of seniors themselves who reflect the attitudes of society which often feel uncomfortable about the stigma of receiving mental health services.

The second more powerful one that we can deal with and change is the attitude of personnel in mental health centers. People who work in mental health centers reflect society as a whole. They reflect attitudes of ageism as well as racism and sexism. I have one example I would like to give you as looking at the age of the staffs in mental health centers. They are generally quite young and reflect an attitude, I think, in the living process. The attitude toward the aging issue that I believe can be changed by looking at the issue of ageism by providing training opportunities, educational opportunities, and I believe the lack of provision of training and education for training of mental health center staff for delivering of service to seniors indicates that is an ageism issue. It is a fact we have tended to ignore the needs for training for personnel. It has only been this past year, in the last few months, that an institute for the study of gerontology has actually begun to be established in this region. I think that indicates the fact we have not even paid attention to training needs and study needs.

A third area I would encourage you to look at would be the kinds of services that are delivered to seniors. We have significantly found that too traditional methods of coming into a center for a direct kind of contact just does not work. The need for outreach services is very apparent. The center in which I work has recently hired an outreach worker as the result of CETA funds. That has made for a higher delivery rate of service, if you will.

The last area I would ask you to take a look at is the funding pattern. Once mental health centers are established, Federal funds are withdrawn and those funds are generally used or have been used to a great degree for consultation, educational and community development kinds of programs. As a result of the lack of funding from the Federal level, we revert to simply State funding, and the mandate on the State level is for direct, face-to-face service. That means we again by definition just negate the senior population from receiving services because of the lack of opportunity. Very often because of physical disability in, or whatever, from coming in. If we are truly not to underserve seniors, I would encourage us to take a look at those four areas.

Commissioner Freeman. There are two additional witnesses that will be provided a shorter time because they did not register within the time that was allotted. Will you give the names of those?

TESTIMONY OF SHERRY KRASNO AND CARMEN LABORIA

[Sherry Krasno and Carmen LaBoria were sworn.]

Mr. Dorsey. Can you state your full name and spell the last name for the record?

Mr. LaBoria. Carmen LaBoria, L-a-B-o-r-i-a.

Mr. Dorsey. And your first name, sir?

Mr. LaBoria. Carmen.

Ms. Krasno. Sherry Krasno, K-r-a-s-n-o.

Mr. Dorsey. I wanted to indicate we had a scheduled time for cutting off the witnesses, and we appreciate the importance of getting your testimony. We want to hear it, but it will be necessary to limit you to 3 minutes because of prior obligations. If you will start, Mr. LaBoria, you will be notified when you have a minute left.

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Mr. LaBoria. I will try to limit myself a little more than I have intended. I find for a Government hearing that the attendance in this room is indicative of my experience with those kind of hearings. You have spoken here of people signing up and the timeframe in which they could discuss or make a statement. I am not aware of any member of the public being aware of this or alerted to what those qualifications or standards were.

I was here for about an hour yesterday, and I think in the interest of time we would not want to keep Mr. Flemming or Commissioner Freeman from their appointed duties. I would like to relate an analogy of what I feel my experience has shown for the past few years with this type of hearing. I am here speaking as a consumer and for the general public. I would liken that member of the public to a missionary who is tightly bound, lain on the ground between two roaring fires, and in the background all of the tribal chieftains are deliberating, debating, arguing whether they are going to roast him or boil the missionary. I will leave that to the next person. I sincerely hope that the point I tried to make has a degree of substance which will culminate in some degree of action.

Ms. Krasno. I have two comments. The first is that within the State of Colorado a youth is allowed legally to drop out of school at the age of 16. He or she is not allowed legally to freely take part in GED testing program until the age of 18. I bring that to your attention for your consideration more than giving you my judgment about that.

The second point that I would like to make is that in the State of Colorado we do not have a work permit, per se. A youth must get a proof of age document through the school that he or she attends. In essence the school is controlling the type of employment that the youth can access. It also is very pertinent to note that there are practices of pushout policies, where youth under the age of 16 because they cannot legally be thrown out of school, they are pushed out through long suspension kind of policies. This leads the young people, that as 15, 14, and 13, that are under this type of jurisdiction; they are subject to the rules of the school. So the rules and the State of Colorado for the younger youth regarding employment are governed by the school. I believe these are both discriminatory practices.

The third point I would like to make is that in essence on an age discrimination hearing such as this I felt there was not enough youth representation. I feel this is a form of discrimination going on right in this hearing. Thank you.

Commissioner Freeman. We are about to bring this hearing to a close, and this is a second hearing of the Commission on its age discrimination study. The hearings have followed an extensive review of eight federally-assisted programs: the food stamp program, Medicaid, community aid, mental health centers program, the community health centers program, vocational rehabilitation program, the social services program under Title XX, the Social Security Act, and Legal Services program.

Those programs were selected because they represented some of the more significant Federal initiatives in the area of social and health service delivery and make a large portion of the Federal, State, and local health services budget. In addition, the Commission has received testimony in the field of education, emphasizing the admission policies of graduate institutions and professional schools, admission policies in financial aid procedures of undergraduate institutions, and targeting of the appropriation at elementary and secondary education levels.

The purpose of the hearing was to build on and expand the body of information we have acquired from the field work to receive testimony from persons who share responsibility for the delivery of services and who are in a position to explain the reasons for discriminating against potential clients, beneficiaries, or participants on the basis of age. That includes not necessarily the older but the young. And solicit recommendations on suggested general regulations and Federal endorsement procedures to implement the act. We are pleased that we have received the cooperation of all persons who were subpenaed. The testimony which was provided will make a very valuable asset to the record. We express our appreciation on the behalf of the Commission and its staff for the cooperation which we have received here in Denver. At this time I would like to say this hearing is adjourned.

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